United Nations S/2005/195

Security Council

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23 March 2005

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Draft resolution

The Security Council,

Recalling its previous resolutions on Afghanistan, in particular its resolution 1536 (2004) of 26 March 2004 extending the mandate of the United Nations Assistance Mission in Afghanistan (UNAMA) through 26 March 2005,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of Afghanistan,

Welcoming once again the successful holding of the presidential election on 9 October 2004,

Recognizing the urgent need to tackle the ongoing challenges in Afghanistan, including the fight against narcotics, the lack of security in certain areas, terrorist threats, comprehensive nationwide disarmament, demobilization and reintegration of the Afghan Militia Forces and disbandment of illegal armed groups, timely preparation for the parliamentary, provincial and district elections, development of Afghan Government institutions, acceleration of justice sector reform, promotion and protection of human rights, and economic and social development,

Reaffirming in this context its continued support for the implementation of the provisions of the Bonn Agreement of 5 December 2001, and of the Berlin Declaration of 1 April 2004 including its annexes, and *pledging* its continued support thereafter for the Government and people of Afghanistan as they rebuild their country, strengthen the foundations of a constitutional democracy and assume their rightful place in the community of nations,

Recalling and emphasizing the importance of the Kabul Declaration of 22 December 2002 on Good-Neighbourly Relations (S/2002/1416), and *encouraging* all States concerned to continue to follow up on the Kabul Declaration and the Declaration on Trade, Transit and Inward Investment signed in Dubai in September 2003,

Expressing its appreciation and strong support for the ongoing efforts of the Secretary-General and his Special Representative for Afghanistan, and *stressing* the central and impartial role that the United Nations continues to play in promoting peace and stability in Afghanistan,

1. *Welcomes* the report of the Secretary-General of 18 March 2005 (S/2005/183);

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2. *Decides* to extend the mandate of UNAMA for an additional period of 12 months from the date of adoption of this resolution;

3. *Stresses* the importance of urgently establishing a framework for the holding at the earliest possible date of free and fair elections, *welcomes* in this regard the announcement of the Joint Electoral Management Body that elections for the lower house of the parliament (*Wolesi Jirga*) and provincial councils will be held on 18 September 2005, *calls upon* UNAMA to continue to provide necessary support in order to facilitate timely elections with the broadest possible participation, and *urges* the donor community to promptly make available the necessary financial support based on that framework, in close coordination with the Government of Afghanistan and UNAMA, and to consider contributing to electoral observer missions;

4. *Stresses* the importance of security for the credible parliamentary, provincial and district elections, and to this end *calls upon* Member States to contribute personnel, equipment and other resources to support the expansion of the International Security Assistance Force and the establishment of provincial reconstruction teams in other parts of Afghanistan, and to coordinate closely with UNAMA and the Government of Afghanistan;

5. *Welcomes* the international efforts to assist in setting up the new Afghan Parliament and ensure its efficient functioning, which will be critical to the political future of Afghanistan and the steps towards a free and democratic Afghanistan;

6. *Welcomes* the substantial progress in the disarmament, demobilization and reintegration (DDR) process in accordance with the Bonn Agreement, *encourages* the Government of Afghanistan to continue its active efforts to accelerate the DDR process towards its completion by June 2006 to disband the illegal armed groups and to dispose of the ammunition stockpile, and *requests* the international community to further extend assistance for these efforts;

7. *Welcomes* the effort to date of the Government of Afghanistan to implement its national drug control strategy adopted in May 2003, including through the launch of the 2005 Counter Narcotics Implementation Plan in February 2005, which reflects a new determination of the Government to tackle the cultivation, production and trafficking of drugs, *urges* the Government to take decisive action to stop the processing and trade of drugs and to pursue the specific measures set out in that plan in the fields of building institutions, information campaigns, alternative livelihoods, interdiction and law enforcement, criminal justice, eradication, demand reduction and treatment of addicts, and regional cooperation, and *calls on* the international community to provide every possible assistance to the Government in pursuing full implementation of all aspects of the plan;

8. *Supports* the fight against the illicit trafficking of drugs and precursors within Afghanistan and in neighbouring States and countries along trafficking routes, including increased cooperation among them to strengthen anti-narcotic controls to curb the drug flow, and *welcomes* in this context the signing on 1 April 2004 of the Berlin Declaration on Counter-Narcotics within the framework of the Kabul Declaration on Good-Neighbourly Relations of 22 December 2002;

9. *Requests* UNAMA to continue to support the ongoing effort for the establishment of a fair and transparent justice system, including the reconstruction

and reform of the prison sector, in order to strengthen the rule of law throughout the country;

10. *Calls for* full respect for human rights and international humanitarian law throughout Afghanistan and, in this regard, *requests* UNAMA, with the support of the Office of the United Nations High Commissioner for Human Rights, to continue to assist in the full implementation of the human rights provisions of the new Afghan constitution, in particular those regarding the full enjoyment by women of their human rights, *commends* the Afghan Independent Human Rights Commission for its courageous efforts to monitor respect for human rights in Afghanistan as well as to foster and protect these rights, *welcomes* in this regard the Commission's report of 29 January 2005 and the proposed national strategy for transitional justice, and *requests* international support for that endeavour;

11. *Welcomes* the development of the Afghan National Army and Afghan National Police and the ongoing efforts to increase their capabilities as important steps towards the goal of Afghan security forces providing security and ensuring the rule of law throughout the country;

12. *Calls upon* the Government of Afghanistan, with the assistance of the international community, including the Operation Enduring Freedom coalition and the International Security Assistance Force, in accordance with their respective designated responsibilities as they evolve, to continue to address the threat to the security and stability of Afghanistan posed by Al-Qaida operatives, the Taliban and other extremist groups, factional violence among militia forces and criminal activities, in particular violence involving the drug trade;

13. *Requests* the Secretary-General to report to the Council in a timely manner on developments in Afghanistan, and make recommendations on the future role of UNAMA, after the parliamentary elections;

14. *Decides* to remain actively seized of the matter.

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Security Council

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23 March 2005
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Original: French

Letter dated 22 March 2005 from the Permanent Representative of Switzerland to the United Nations addressed to the President of the Security Council

On instructions from my Government, I wish formally to reiterate the position of Switzerland with respect to the crimes committed in Darfur.

Switzerland has for several years supported the efforts to bring peace to the Sudan and has followed attentively the discussions of recent weeks on Darfur in the Security Council. It urges the members of the Council to refer the situation in Darfur to the International Criminal Court, in accordance with the recommendations of the United Nations Commission of Inquiry on Darfur established by the Council.

Switzerland has constantly upheld the position that serious violations of human rights and humanitarian law must be investigated and that the perpetrators, no matter who they are, must be punished, where necessary at the international level. Providing justice to the victims should not only break the cycle of impunity and prevent new atrocities; it should also contribute to the peace efforts under way and lay the foundations for reconciliation.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(*Signed*) Peter **Maurer**
Ambassador

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United Nations A/59/754–S/2005/197

General Assembly
Security Council

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23 March 2005

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General Assembly
Fifty-ninth session
Agenda items 96, 97 and 148
Crime prevention and criminal justice
International drug control
Measures to eliminate international terrorism

Security Council
Sixtieth year

Letter dated 10 March 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Croatia to the United Nations addressed to the Secretary-General

On instructions from my Government, I transmit to you herewith the Zagreb Declaration on International Cooperation on Counter-Terrorism, Corruption and the Fight against Transnational Organized Crime, adopted at the expert workshop on "International cooperation on counter-terrorism, corruption and the fight against transnational organized crime", held from 7 to 9 March 2005 in Zagreb, Republic of Croatia.

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly under agenda items 96, 97 and 148 and of the Security Council.

(*Signed*) Ivan **Nimac**
Chargé d'affaires a.i.

05-28192 (E) 290305

Annex

Zagreb Declaration on International Cooperation on Counter-terrorism, Corruption and the Fight against Transnational Organized Crime

We, the delegations of the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the Republic of Hungary, Romania, the State Union of Serbia and Montenegro, the Slovak Republic, the Republic of Slovenia, and the Former Yugoslav Republic of Macedonia:

Expressing our gratitude to the Government of the Republic of Croatia for having hosted the Expert Workshop on *International Cooperation on Counter-terrorism, Corruption and the Fight against Transnational Organized Crime* and to the United Nations Office on Drugs and Crime (UNODC), which jointly organized the workshop, held 7-9 March 2005, in Zagreb, the Republic of Croatia.

Noting with appreciation the participation in the expert workshop of the following organizations and institutions: the Council of Europe, the Council of the European Union, the European Commission, Eurojust, the International Criminal Police Organization, the International Organization for Migration, the Office of the High Representative (Bosnia and Herzegovina), the Organization for Security and Cooperation in Europe, the SECI Center, the Stability Pact for South-Eastern Europe, and the United Nations Office of the High Commissioner for Human Rights;

Taking note of the serious concern of the international community about the increasing menace of terrorism and spreading of transnational organized crime on the regional and global level, which threatens regional and international security, as well as the security of each individual State;

Confirming our strong commitment to the relentless efforts of the international community in the fight against all forms of corruption, terrorism and transnational organized crime, bearing also in mind the necessary compliance with international human rights and humanitarian laws;

Underscoring the importance of technical assistance and capacity building for the countries, which are in need of such assistance, particularly in the field of drafting and implementing of legislation.

Hereby agree on the following:

Call upon participating States in the region, which have not yet become parties to all the universal conventions and protocols relating to terrorism, the United Nations Convention against Transnational Organized Crime and its three Protocols, as well as to the United Nations Convention against Corruption, to ratify or accede to them as soon as possible;

Call upon the participating States, which have not done so, to submit their reports to the Counter Terrorism Committee of the United Nations Security Council, pursuant to resolution 1373 (2001) of the United Nations Security Council (UNSC) and to the Committee established pursuant to UNSC resolution 1267 (1999) concerning Al-Qaida and the Taliban associated individuals and entities; as well as to the Committee established pursuant to UNSC resolution 1540 (2004), concerning the transfer of weapons of mass destruction to non-state actors;

Call upon UNODC and OHCHR to develop joint programs for the delivery of technical assistance in the areas of counter-terrorism in conformity with the promotion and protection of human rights;

Urge the participating States, which have yet not done so, to take all necessary national measures to afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, corruption, and transnational organized crime, including assistance in obtaining evidence in their possession necessary for the proceedings;

Call upon the participating States to enhance operational cooperation among competent authorities, particularly through bilateral and multilateral arrangements and agreements in combating corruption and transnational organized crime, as well as to prevent and suppress terrorist attacks, in accordance with the relevant provisions of United Nations Security Council Resolution 1373 (2001);

Commend the international, regional and sub-regional organizations represented in the workshop for their active participation and their commitment; and call upon these organizations to promote a continuous dialogue and joint activities in order to maximize resources for strengthening the capacities of the participating States in their efforts to combat terrorism, transnational organized crime and corruption;

Stress the importance of establishing, whenever necessary, the exchange of governmental experts, in order to share experience in the field of legislation against corruption, terrorism and transnational organized crime;

Delegations note with appreciation the annexed conclusions of the working groups on the improvement of international cooperation in the implementation of the universal instruments against terrorism, the UN Convention against Transnational Organized Crime and its Protocols, as well as the United Nations Convention against Corruption, and recommend them as practical tools for the implementation of these instruments.

Follow-up

Participating States are encouraged to consider appropriate follow-up to the conclusions of the Expert Workshop on *International Cooperation on Counter-terrorism, Corruption and the Fight against Transnational Organized Crime* with the support of the participating organizations.

Appendix

Conclusions of the expert workshop on "International cooperation on counter-terrorism, corruption and the fight against transnational organized crime"

COUNTER- TERRORISM

- A terrorist offence should under no circumstances be considered a political offence;
- For all terrorist offences, the rule *aut dedere aut judicare* should be mandatory;
- In relation to extradition the anti-discrimination clause should not be confused with a political offence;
- Participating States should, whenever necessary, take the universal instruments against terrorism as a legal basis for extradition, and consider these instruments as bilateral treaties when States require these treaties as a legal basis for extradition;
- If a participating State refuses extradition or mutual legal assistance based on a lack of relevant legislation or the relevant international or a regional treaty in force in cases related to terrorist offences, the UN Security Council resolution 1373 (2001) should be applied, under the principle of reciprocity;
- The concept of double criminality should benefit of a flexible interpretation in order to allow the broadest mutual legal assistance possible, based on corresponding elements identified in a national legislation.
- Law enforcement liaison officers are recognized by the participating States as very efficient channels for the exchange of information. Their status, role and functioning should be regulated by multilateral (bilateral) agreements;

TRANSNATIONAL ORGANIZED CRIME AND CORRUPTION

- In order to detect and suppress transnational organized crime, the participating States, which have not yet done so, are encouraged to adjust their national legislation in order to meet the requirements to conduct joint international investigations in accordance with international conventions and protocols;
- Recall that an organized criminal group does not require defined roles for its members, hierarchy, continuity of its membership or a developed structure;
- In the framework of international cooperation in criminal matters it is recommended that the request should be as comprehensive as possible to comply with the rule of speciality;
- It is recommended that the competent authorities of a country requested for confiscation of assets deriving from the transnational organized crime activities give immediate effect to the foreign confiscation order, to the greatest extent possible within its domestic legal system, including through agreements on the recognition of foreign judicial decisions;
- Bank secrecy shall not be a ground for refusal of mutual legal assistance in criminal matters;
- Properties deriving from proceeds of crime should be liable to confiscation;
- Participating States should extend their jurisdiction on money laundering cases as broadly as possible regardless of the place where the predicate offence has been committed;
- In the case of extradition, the principle *aut dedere aut judicare* should be fully applied, including in exploring the possibility of surrendering the alleged criminals, upon condition that they will be returned to the country of origin to serve the sentence;
- Participating States should be encouraged to negotiate arrangements to avoid positive or negative conflicts of jurisdiction regarding transnational organized crime cases;

- Participating States recommend a fast, strong and reliable method for the exchange of information to be established, if not yet done so, in the course of detecting and prosecuting organizers and perpetrators of transnational organized crime;

- Participating States are encouraged to improve and promote the protection of victims of trafficking (of persons) and/or smuggling in migrants and to ensure adequate assistance to them, in accordance with the international conventions and protocols;

- Participating States are encouraged to allow their criminal justice systems to admit new methods of evidence necessary to combat transnational organized crime and corruption;

- Participating States are encouraged to promote adequate measures to facilitate the reporting of corruption.

GENERAL REMARKS

Participating States note that the Member States of the European Union are bound to apply the EU legal instruments related to terrorism, transnational organized crime and corruption.

Participating States also underline the value of using available legal instruments of the Council of Europe and the European Union related to terrorism, transnational organized crime and corruption, whenever applicable.

Zagreb, 9 March 2005

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Security Council

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23 March 2005

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Draft resolution

The Security Council,

Recalling its resolutions 1547 (2004) of 11 June 2004, 1556 (2004) of 30 July 2004, 1564 (2004) of 18 September 2004, and 1574 (2004) of 19 November 2004, 1585 (2005) of 10 March 2005 and 1588 (2005) of 17 March 2005, and statements of its President concerning Sudan,

Reaffirming its commitment to the sovereignty, unity, independence and territorial integrity of Sudan, and recalling the importance of the principles of good neighbourliness, non-interference and regional cooperation,

Welcoming the signing of the Comprehensive Peace Agreement between the Government of Sudan (GOS) and the Sudan People's Liberation Movement/Army (SPLM/A) in Nairobi, Kenya on 9 January 2005,

Recalling the commitments made by the parties in the 8 April N'djamena Ceasefire Agreement and the 9 November 2004 Abuja Humanitarian and Security Protocols between the Government of Sudan, the Sudan People's Liberation Movement/Army (SPLM/A) and the Justice and Equality Movement (JEM), and recalling the commitments made in the Joint Communiqué of 3 July 2004 between the Government of Sudan and the Secretary-General,

Expressing its determination to help the people of Sudan to promote national reconciliation, lasting peace and stability, and to build a prosperous and united Sudan in which human rights are respected, the protection of all citizens assured,

Taking note of the statements of Vice-President Ali Osman Taha of the Government of Sudan and Chairman Garang of the SPLM/A at the meeting of the Council on 8 February 2005, and the strong will and determination they expressed to find a peaceful resolution to the conflict in Darfur as expressed at the meeting,

Recognizing that the parties to the Comprehensive Peace Agreement must build on the Agreement to bring peace and stability to the entire country, and calling on all Sudanese parties in particular those party to the Comprehensive Peace Agreement, to take immediate steps to achieve a peaceful settlement to the conflict in Darfur and to take all necessary action to prevent further violations of human rights and international humanitarian law and to put an end to impunity, including in the Darfur region,

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Expressing its utmost concern over the dire consequences of the prolonged conflict for the civilian population in the Darfur region as well as throughout Sudan, in particular the increase in the number of refugees and internally displaced persons,

Considering that the voluntary and sustainable return of refugees and internally displaced persons will be a critical factor for the consolidation of the peace process,

Expressing also its deep concern for the security of humanitarian workers and their access to populations in need, including refugees, internally displaced persons and other war-affected populations,

Condemning the continued violations of the N'djamena Ceasefire Agreement of 8 April 2004 and the Abuja Protocols of 9 November 2004 by all sides in Darfur and the deterioration of the security situation and the negative impact this has had on humanitarian assistance efforts,

Strongly condemning all violations of human rights and international humanitarian law in the Darfur region, in particular the continuation of violence against civilians and sexual violence against women and girls since the adoption of resolution 1574 (2004), urging all parties to take necessary steps to prevent further violations, and expressing its determination to ensure that those responsible for all such violations are identified and brought to justice without delay,

Recalling the demands in resolutions 1556 (2004), 1564 (2004) and 1574, that all parties to the conflict in Darfur refrain from any violence against civilians and cooperate fully with the African Union Mission in Darfur,

Commending the efforts of the African Union, in particular its Chairman, acknowledging the progress made by the African Union in the deployment of an international protection force, police, and military observers, and calling on all member States to contribute generously and urgently to the African Union Mission in Darfur,

Commending also the efforts of the Intergovernmental Authority for Development (IGAD), in particular the Government of Kenya as Chair of the Subcommittee on Sudan,

Reaffirming its resolutions 1325 (2000) on women, peace and security, 1379 (2001) and 1460 (2003) on children in armed conflicts, as well as resolutions 1265 (1999) and 1296 (2000) on the protection of civilians in armed conflicts and resolution 1502 (2003) on the protection of humanitarian and United Nations personnel,

Welcoming the efforts by the United Nations to sensitize United Nations personnel in the prevention and control of HIV/AIDS and other communicable diseases in all its established operations,

Expressing grave concern at the allegations of sexual exploitation and misconduct by United Nations personnel in United Nations established operations, and welcoming the Secretary-General's 9 February 2005 letter to the Council in this regard, affirming there will be a zero-tolerance policy of sexual exploitation and abuse of any kind in all United Nations peacekeeping missions,

Recognizing that international support for implementation of the Comprehensive Peace Agreement is critically important to its success, emphasizing

that progress towards resolution of the conflict in Darfur would create conditions conducive for delivery of such assistance, and alarmed that the violence in Darfur nonetheless continues,

Taking note of the Secretary-General's reports of 31 January 2005 (S/2005/57 and Add.1), 4 February 2005 (S/2005/68), and 4 March 2005 (S/2005/140) as well as the report of 25 January 2005 of the International Commission of Inquiry (S/2005/60),

Taking note of the request of the parties to the Comprehensive Peace Agreement for the establishment of a peace support mission,

Expressing appreciation for the important contributions of the Standby High Readiness Brigade (SHIRBRIG) towards the planning, preparation, and initial deployment of a peacekeeping operation, as well as the preparatory work by the United Nations Advance Mission in Sudan,

Determining that the situation in Sudan continues to constitute a threat to international peace and security,

1. *Decides* to establish the United Nations Mission in Sudan (UNMIS) for an initial period of 6 months and further decides that UNMIS will consist of up to 10,000 military personnel and an appropriate civilian component including up to 715 civilian police personnel;

2. *Requests* that UNMIS closely and continuously liaise and coordinate at all levels with the African Union Mission in Sudan (AMIS) with a view towards expeditiously reinforcing the effort to foster peace in Darfur, especially with regard to the Abuja peace process and the African Union Mission in Sudan;

3. *Requests* the Secretary-General, through his Special Representative for Sudan, to coordinate all the activities of the United Nations system in Sudan, to mobilize resources and support from the international community for both immediate assistance and the long-term economic development of Sudan, and to facilitate coordination with other international actors, in particular the African Union and IGAD, of activities in support of the transitional process established by the Comprehensive Peace Agreement, and to provide good offices and political support for the efforts to resolve all ongoing conflicts in Sudan;

4. *Decides* that the mandate of UNMIS shall be the following:

(a) To support implementation of the Comprehensive Peace Agreement by performing the following tasks:

(i) To monitor and verify the implementation of the Ceasefire Agreement and to investigate violations;

(ii) To liaise with bilateral donors on the formation of Joint Integrated Units;

(iii) To observe and monitor movement of armed groups and redeployment of forces in the areas of UNMIS deployment in accordance with the Ceasefire Agreement;

(iv) To assist in the establishment of the disarmament, demobilization and reintegration programme as called for in the Comprehensive Peace Agreement, with particular attention to the special needs of women and child combatants,

and its implementation through voluntary disarmament and weapons collection and destruction;

(v) To assist the parties to the Comprehensive Peace Agreement in promoting understanding of the peace process and the role of UNMIS by means of an effective public information campaign, targeted at all sectors of society, in coordination with the African Union;

(vi) To assist the parties to the Comprehensive Peace Agreement, in addressing the need for a national inclusive approach, including the role of women, towards reconciliation and peacebuilding;

(vii) To assist the parties to the Comprehensive Peace Agreement, in coordination with bilateral and multilateral assistance programmes, in restructuring the police service in Sudan, consistent with democratic policing, to develop a police training and evaluation programme, and to otherwise assist in the training of civilian police;

(viii) To assist the parties to the Comprehensive Peace Agreement in promoting the rule of law, including an independent judiciary, and the protection of human rights of all people of Sudan through a comprehensive and coordinated strategy with the aim of combating impunity and contributing to long-term peace and stability and to assist the parties to the Comprehensive Peace Agreement to develop and consolidate the national legal framework;

(ix) To ensure an adequate human rights presence, capacity, and expertise within UNMIS to carry out human rights promotion, civilian protection, and monitoring activities;

(x) To provide guidance and technical assistance to the parties to the Comprehensive Peace Agreement, in cooperation with other international actors, to support the preparations for and conduct of elections and referenda provided for by the Comprehensive Peace Agreement;

(b) To facilitate and coordinate, within its capabilities and in its areas of deployment, the voluntary return of refugees and internally displaced persons, and humanitarian assistance, inter alia, by helping to establish the necessary security conditions;

(c) To assist the parties to the Comprehensive Peace Agreement in cooperation with other international partners in the mine action sector, by providing humanitarian demining assistance, technical advice, and coordination;

(d) To contribute towards international efforts to protect and promote human rights in Sudan, as well as to coordinate international efforts towards the protection of civilians with particular attention to vulnerable groups including internally displaced persons, returning refugees, and women and children, within UNMIS's capabilities and in close cooperation with other United Nations agencies, related organizations, and non-governmental organizations;

5. *Requests* the Secretary-General to report to the Council within 30 days on options for how UNMIS can reinforce the effort to foster peace in Darfur through appropriate assistance to AMIS, including logistical support and technical assistance, and to identify ways in liaison with the AU to utilize UNMIS's

resources, particularly logistical and operations support elements, as well as reserve capacity towards this end;

6. *Calls upon* all parties to cooperate fully in the deployment and operations of UNMIS, in particular by guaranteeing the safety, security and freedom of movement of United Nations personnel as well as associated personnel throughout the territory of Sudan;

7. *Emphasizes* that there can be no military solution to the conflict in Darfur, and calls upon the Government of Sudan and the rebel groups, particularly the Justice and Equality Movement and the Sudanese Liberation Army/Movement to resume the Abuja talks rapidly without preconditions and negotiate in good faith to speedily reach agreement, and urges the parties to the Comprehensive Peace Agreement to play an active and constructive role in support of the Abuja talks and take immediate steps to support a peaceful settlement to the conflict in Darfur;

8. *Calls upon* all Member States to ensure the free, unhindered and expeditious movement to Sudan of all personnel, as well as equipment, provisions, supplies and other goods, including vehicles and spare parts, which are for the exclusive and official use of UNMIS;

9. *Calls upon* all parties to ensure, in accordance with relevant provisions of international law, the full, safe and unhindered access of relief personnel to all those in need and delivery of humanitarian assistance, in particular to internally displaced persons and refugees;

10. *Requests* that the Secretary-General transfer all functions performed by the special political mission in Sudan (UNAMIS) to UNMIS, together with staff and logistics of the office as appropriate, on the date when UNMIS is established, and to ensure a seamless transition between the United Nations and existing monitoring missions, namely the Verification Monitoring Team, the Joint Monitoring Mission, and the Civilian Protection Monitoring Team;

11. *Requests* the Secretary-General to keep the Council regularly informed of the progress in implementing the Comprehensive Peace Agreement, respect for the ceasefire, and the implementation of the mandate of UNMIS, including a review of the troop level, with a view to its adjusted reduction, taking account of the progress made on the ground and the tasks remaining to be accomplished and to report to the Council in this regard every three months;

12. *Requests* that the Secretary-General continue to report on a monthly basis on the situation in Darfur;

13. *Urges* the Joint Assessment Mission of the United Nations, the World Bank, and the parties, in association with other bilateral and multilateral donors, to continue their efforts to prepare for the rapid delivery of an assistance package for the reconstruction and economic development of Sudan, including official development assistance and trade access, to be implemented once implementation of the Comprehensive Peace Agreement begins, and welcomes the initiative of the Government of Norway to convene an international donors' conference for the reconstruction and economic development of Sudan, and urges the international community accordingly to donate generously, including to address the needs of internally displaced persons and refugees;

14. *Requests* the Secretary-General to take the necessary measures to achieve actual compliance in UNMIS with the United Nations zero-tolerance policy on sexual exploitation and abuse, including the development of strategies and appropriate mechanisms to prevent, identify and respond to all forms of misconduct, including sexual exploitation and abuse, and the enhancement of training for personnel to prevent misconduct and ensure full compliance with the United Nations code of conduct, *requests* the Secretary-General to take all necessary action in accordance with the Secretary-General's Bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13) and to keep the Council informed, and *urges* troop-contributing countries to take appropriate preventive action including the conduct of pre-deployment awareness training, and to take disciplinary action and other action to ensure full accountability in cases of such conduct involving their personnel;

15. *Reaffirms* the importance of appropriate expertise on issues relating to gender in peacekeeping operations and post-conflict peacebuilding in accordance with resolution 1325 (2000), recalls the need to address violence against women and girls as a tool of warfare, and encourages UNMIS as well as the Sudanese parties to actively address these issues;

16. *Acting* under Chapter VII of the Charter of the United Nations,

(i) Decides that UNMIS is authorized to take the necessary action, in the areas of deployment of its forces and as it deems within its capabilities, to protect United Nations personnel, facilities, installations, and equipment, ensure the security and freedom of movement of United Nations personnel, humanitarian workers, joint assessment mechanism and assessment and evaluation commission personnel, and, without prejudice to the responsibility of the Government of Sudan, to protect civilians under imminent threat of physical violence; and

(ii) Requests that the Secretary-General and the Government of Sudan, following appropriate consultation with the Sudan People's Liberation Movement, conclude a status-of-forces agreement within 30 days of adoption of the resolution, taking into consideration General Assembly resolution 58/82 on the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel, and notes that pending the conclusion of such an agreement, the model status-of-forces agreement dated 9 October 1990 (A/45/594), shall apply provisionally;

17. *Underscores* the immediate need to rapidly increase the number of human rights monitors in Darfur, and urges the Secretary-General and the High Commissioner for Human Rights to undertake to accelerate the deployment of human rights monitors to Darfur and augment their numbers and also to move forward with the formation of civilian monitoring protection teams, and expects that the Secretary-General will report on progress on the formation of these teams in his reports to the Security Council as outlined in paragraph 11;

18. *Decides* to remain seized of the matter.

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Security Council

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Denmark, France, Greece, Romania and the United Kingdom of Great Britain and Northern Ireland: draft resolution

The Security Council,

Taking note of the report of the International Commission of Inquiry on violations of international humanitarian law and human rights law in Darfur (S/2005/60),

Recalling article 16 of the Rome Statute under which no investigation or prosecution may be commenced or proceeded with by the International Criminal Court for a period of 12 months after a Security Council request to that effect,

Also recalling articles 75 and 79 of the Rome Statute and encouraging States to contribute to the ICC Trust Fund for Victims,

Taking note of the existence of agreements referred to in Article 98-2 of the Rome Statute,

Determining that the situation in Sudan continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to refer the situation in Darfur since 1 July 2002 to the Prosecutor of the International Criminal Court;

2. *Decides* that the Government of Sudan and all other parties to the conflict in Darfur shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution and, while recognizing that States not party to the Rome Statute have no obligation under the Statute, urges all States and concerned regional and other international organizations to cooperate fully;

3. *Invites* the Court and the African Union to discuss practical arrangements that will facilitate the work of the Prosecutor and of the Court, including the possibility of conducting proceedings in the region, which would contribute to regional efforts in the fight against impunity;

4. *Also encourages* the Court, as appropriate and in accordance with the Rome Statute, to support international cooperation with domestic efforts to promote the rule of law, protect human rights and combat impunity in Darfur;

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5. *Also emphasizes* the need to promote healing and reconciliation and encourages in this respect the creation of institutions, involving all sectors of Sudanese society, such as truth and/or reconciliation commissions, in order to complement judicial processes and thereby reinforce the efforts to restore long-lasting peace, with African Union and international support as necessary;

6. *Decides* that nationals and members of the armed forces from a contributing State outside Sudan and not party to the Rome Statute who participate in or assist the operations established or authorized by the Council in Sudan shall not be subject to investigation or prosecution by the Court for alleged crimes in relation to that participation or assistance if that State has so notified the Secretary-General within 30 days of the adoption of this resolution;

7. *Recognizes* that none of the expenses incurred in connection with the referral including expenses related to investigations or prosecutions in connection with that referral, shall be borne by the United Nations and that such costs shall be borne by the parties to the Rome Statute and those States that wish to contribute voluntarily;

8. *Invites* the Prosecutor to address the Council within three months of the date of adoption of this resolution and every six months thereafter on actions taken pursuant to this resolution;

9. *Decides* to remain seized of the matter.

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English
Original: French

Letter dated 11 March 2005 from the Permanent Representative of Luxembourg to the United Nations addressed to the Secretary-General

I have the honour to bring to your attention a statement on the recent developments in Serbia and Montenegro/Kosovo issued on 10 March 2005 by the Presidency of the European Union (see annex).

I should be grateful if you would arrange for the text of this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jean-Marc **Hoscheit**
Permanent Representative of Luxembourg to the United Nations

05-28235 (E) 280305 280305

Annex to the letter dated 11 March 2005 from the Permanent Representative of Luxembourg to the United Nations addressed to the Secretary-General

[Original: English, French and Spanish]

Statement on the recent developments in Serbia and Montenegro/Kosovo, issued on 10 March 2005 by the Presidency on behalf of the European Union

The European Union has noted the indictment issued by the International Criminal Tribunal for the Former Yugoslavia against Mr. Haradinaj and welcomes his decision to resign as Prime Minister of Kosovo and go voluntarily to The Hague.

Full and unreserved cooperation with the International Criminal Tribunal for the Former Yugoslavia remains an essential requirement for further movement of the Western Balkans towards the European Union.

The European Union calls on everyone in Kosovo and elsewhere in the region not to exploit this indictment for their own ends. All violence is unacceptable and will delay the political process under way.

The European Union calls on Kosovo's political forces to act as swiftly as possible to form a new government that is able and determined to continue the effective implementation of the standards laid down by the United Nations. The European Union remains committed to continuing the political process, which should, in mid-2005, lead to the full evaluation of the progress achieved. Movement towards a process to determine the future status of Kosovo in accordance with United Nations Security Council resolution 1244 (1999) will depend on the positive outcome of that evaluation.

The European Union repeats that Kosovo will not return to the pre-1999 situation.

United Nations S/2005/201

Security Council

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23 March 2005
English
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Letter dated 17 March 2005 from the Permanent Representative of Luxembourg to the United Nations addressed to the Secretary-General

I have the honour to bring to your attention a statement concerning voluntary surrenders and transfers of indictees to The Hague, issued on 16 March 2005 by the Presidency of the European Union (see annex).

I should be grateful if you would arrange for the text of this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jean-Marc **Hoscheit**
Permanent Representative of Luxembourg to the United Nations

05-28247 (E) 280305 280305

Annex to the letter dated 17 March 2005 from the Permanent Representative of Luxembourg to the United Nations addressed to the Secretary-General

[Original: English, French and Spanish]

Statement concerning voluntary surrenders and transfers of indictees to The Hague, issued on 16 March 2005 by the Presidency on behalf of the European Union

The European Union reiterates that the progress made towards European integration by each of the countries of the Western Balkans depends on its efforts to fulfil all of the Copenhagen criteria and the stabilization and association process requirements, including full cooperation with the International Criminal Tribunal for the Former Yugoslavia.

Recalling its statement of 10 March 2005, the European Union welcomes the increasing number of voluntary surrenders and transfers of indictees from Serbia and Montenegro, including Kosovo, and from Bosnia and Herzegovina to the International Criminal Tribunal for the Former Yugoslavia in The Hague. Continuation of that trend should lead to that all indictees continuing to evade international justice are in the end brought before the tribunal. The European Union repeats that Governments in the region bear a key responsibility in this process. Full cooperation with the International Criminal Tribunal for the Former Yugoslavia by the countries of the Western Balkans continues to be an essential requirement for their further progress towards the European Union, to which the European Union remains committed.

United Nations A/ES-10/298 S/2005/202

General Assembly
Security Council

Distr. General
24 March 2005

Original: English

General Assembly
Tenth emergency special session
Agenda item 5
Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory

Security Council
Sixtieth year

Identical letters dated 23 March 2005 from the Charge d'affaires a.i. of the Permanent Observer Mission of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council

In violation and in total contempt of international law, Israel, the occupying Power, continues to relentlessly pursue its illegal policies and practices aimed at seizing and colonizing the Palestinian land. In this connection, on Monday, 21 March 2005, the Israeli Government confirmed its approval of plans to build 3,500 more housing units in the "Maale Adumim" settlement, the largest illegal Israeli settlement located east of Jerusalem in the Occupied Palestinian Territory. At the same time, the Israeli Government has also made several announcements regarding its intention to expand other illegal settlements in the Occupied Palestinian Territory, particularly settlements in and around Occupied East Jerusalem.

Such decisions by Israel, the occupying Power, reveal its intentions to continue creating facts on the ground and colonizing the Palestinian land in an effort to further entrench its illegal seizure of that land, rather than pursuing a final peace settlement based on international law and on ending its occupation since 1967. Moreover, these ongoing unlawful actions threaten the fragile ceasefire and calm that has been recently achieved by the Palestinian side and will seriously undermine efforts to revive the peace process. It has become tragically obvious that colonization and the peace process are incompatible; there can be no peace with the continued colonization of the Occupied Palestinian Territory, including East Jerusalem.

All such Israeli settlement policies and practices are being carried out in flagrant and grave violation of international law, particularly the Fourth Geneva Convention. Article 49 of the Fourth Geneva Convention — the applicability of which has been reaffirmed by the Security Council in 27 resolutions and by the International Court of Justice in the Advisory Opinion of 9 July 2004 — clearly states that "The occupying Power shall not deport or transfer parts of its own

05-28342 (E) 280305

civilian population into the territory it occupies". Furthermore, article 85 (4) of Protocol I additional to the Geneva Conventions regards the transfer by the occupying Power of parts of its own civilian population into the territory that it occupies as a grave breach, and article 8 (b) (viii) of the Rome Statute of the International Criminal Court considers it to be a war crime.

Moreover, this latest Israeli decision to expand the "Maale Adumim" settlement will compound several problems already being confronted by the Palestinian civilian population in Occupied East Jerusalem. Thousands of Palestinian civilians in Occupied East Jerusalem will effectively be caged in and isolated, deprived of the prospect to grow, develop and connect with the rest of the West Bank. Such actions will also further infringe their freedom of movement and access to and from other Palestinian towns and cities, as well as infringing the access of the rest of the Palestinian population to Jerusalem. These restrictions will further exacerbate the difficult socio-economic conditions and humanitarian hardships being faced by the population. In addition, Israel's continuing illegal settlement campaign, along with its unlawful construction of the Wall in the Occupied Palestinian Territory, is gravely undermining the prospects for achieving the two-State solution in accordance with the road map. In this regard, it is imperative to recall that the road map specifically calls upon Israel to freeze all settlement activity.

In this regard, all Israeli settlement activities, including the unlawful construction of the Wall in the Occupied Palestinian Territory, including East Jerusalem, must be condemned and firmly rejected by the international community. Moreover, the members of the Quartet should make their positions clear in opposition to such unlawful policies and practices and demand that Israel uphold its commitments under the road map and adhere to international law. The international community must call upon Israel, the occupying Power, to scrupulously abide by all of its legal obligations under international law, including international humanitarian law and human rights law. Such respect for international law is critical for the renewal of peace negotiations and for progress to be made in this regard towards a different situation on the ground that would be conducive to the ultimate success of the peace process.

The present letter is in follow-up to our previous 214 letters to you regarding the ongoing crisis in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000. These letters dated from 29 September 2000 (A/55/432-S/2000/921) to 22 February 2005 (A/ES-10/297-S/2005/101) constitute a basic record of the crimes committed by Israel, the occupying Power, against the Palestinian people since September 2000. For all of these war crimes, State terrorism and systematic human rights violations committed against the Palestinian people, Israel, the occupying Power, must be held accountable and the perpetrators must be brought to justice.

Accordingly, in follow-up to the above-mentioned letters, it is my regret to inform you that the Israeli occupying forces continue to use excessive and lethal force against the Palestinian civilian population under occupation. Since our last letter to you, at least six more Palestinians have been killed by the Israeli occupying forces, raising the total number of martyrs killed since September 2000 to 3,647. (The names of the martyrs that have been identified are listed in the annex to the present letter.)

I would be grateful if you would arrange to have the present letter and its annex distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(*Signed*) Somaia **Barghouti**
Chargé d'affaires a.i.

Annex to the identical letters dated 23 March 2005 from the Chargé d'affaires a.i. of the Permanent Observer Mission of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council

Names of martyrs killed by the Israeli occupying forces in the Occupied Palestinian Territory, including East Jerusalem* (Tuesday, 22 February, to Monday, 14 March 2005)

Friday, 25 February 2005

Mazen Ahmed Awad Ben Hassan

Sunday, 27 February 2005

Mohammed Abdelhalim Hashem Ilasha (16 years old) (died from wounds sustained on 26 January 2005)

Wednesday, 2 March 2005

Fady Hassan Karinah (16 years old) (died from wounds sustained on 28 January 2004)

Monday, 7 March 2005

Mohammed Hamed Jalayta (9 years old)

Thursday, 10 March 2005

Mohammed Abdellatif Hussein Abu Khalil

Monday, 14 March 2005

Adham Hassan Al-Shaalan (died from wounds sustained December 2002)

* The total number of Palestinian martyrs killed by the Israeli occupying forces since 28 September 2000 is 3,647.

United Nations S/2005/203

Security Council

Distr.: General
24 March 2005

Original: English

Letter dated 24 March 2005 from the Secretary-General to the President of the Security Council

I have the honour to transmit herewith the report of the Mission of Inquiry into the Circumstances, Causes and Consequences of the 14 February Beirut Bombing, which was prepared pursuant to the statement by the President of the Security Council (S/PRST/2005/4) of 15 February 2005.

This independently conducted fact-finding report presented to the Council today raises some very serious and troubling allegations. The Mission concludes that an independent international investigation is needed.

I endorse the Mission's recommendation that such an investigation be established. The aim would be to reach conclusions as complete as possible about who was responsible for the assassination of Mr. Hariri and the deaths of 19 others.

I wish to thank Mr. Peter FitzGerald, head of the Mission, and the members of his team, for producing the report.

I should be grateful if you would bring this matter to the attention of the members of the Council. Meanwhile, I am also transmitting the report to the Government of Lebanon.

Lebanon is passing through a difficult and sensitive period. It is imperative that all concerned should behave with the utmost restraint. The future of Lebanon should be decided strictly through peaceful means.

(*Signed*) Kofi A. **Annan**

05-28396 (E) 290305

Report of the Fact-finding Mission to Lebanon inquiring into the causes, circumstances and consequences of the assassination of former Prime Minister Rafik Hariri

(25 February-24 March 2005)

Executive summary

On 14 February 2005, an explosion in downtown Beirut killed 20 persons, among them the former Prime Minister, Rafik Hariri. The United Nations Secretary-General dispatched a Fact-finding Mission to Beirut to inquire into the causes, the circumstances and the consequences of this assassination. Following its arrival in Beirut on 25 February, the Mission met with a large number of Lebanese officials and representatives of different political groups, performed a thorough review of the Lebanese investigation and legal proceedings, examined the crime scene and the evidence collected by the local police, collected and analysed samples from the crime scene, and interviewed some witnesses in relation to the crime.

The specific "causes" of the assassination of Mr. Hariri cannot be reliably asserted until after the perpetrators of this crime are brought to justice. However, it is clear that the assassination took place in a political and security context marked by acute polarization around the Syrian influence in Lebanon and the failure of the Lebanese State to provide adequate protection for its citizens.

Regarding the circumstances, the Mission is of the view that the explosion was caused by a trinitrotoluene (TNT) charge of about 1,000 kilograms placed most likely above the ground. The review of the investigation indicates that there was a distinct lack of commitment on the part of the Lebanese authorities to investigating the crime effectively, and that this investigation was not carried out in accordance with acceptable international standards. The Mission is also of the view that the Lebanese investigation lacks the confidence of the population necessary for its results to be accepted.

The consequences of the assassination could be far-reaching. It seems to have unlocked the gates of political upheavals that were simmering throughout the last year. Accusations and counter-accusations are rife and aggravate the ongoing political polarization. Some accuse the Syrian security services and leadership of assassinating Mr. Hariri because he became an insurmountable obstacle to their influence in Lebanon. Syrian supporters maintain that he was assassinated by "the enemies of Syria"; those who wanted to create international pressure on the Syrian leadership in order to accelerate the demise of its influence in Lebanon and/or start a chain of reactions that would eventually force a "regime change" inside the Syrian Arab Republic itself. Lebanese politicians from different backgrounds expressed to the Mission their fear that Lebanon could be caught in a possible showdown between the Syrian Arab Republic and the international community, with devastating consequences for Lebanese peace and security.

After gathering the available facts, the Mission concluded that the Lebanese security services and the Syrian Military Intelligence bear the primary responsibility for the lack of security, protection, and law and order in Lebanon. The Lebanese security services have demonstrated serious and systematic negligence in carrying out the duties usually performed by a professional national security apparatus. In

doing so, they have severely failed to provide the citizens of Lebanon with an acceptable level of security and have therefore contributed to the propagation of a culture of intimidation and impunity. The Syrian Military Intelligence shares this responsibility to the extent of its involvement in running the security services in Lebanon.

It is also the Mission's conclusion that the Government of the Syrian Arab Republic bears primary responsibility for the political tension that preceded the assassination of the former Prime Minister, Mr. Hariri. The Government of the Syrian Arab Republic clearly exerted influence that went beyond the reasonable exercise of cooperative or neighbourly relations. It interfered with the details of governance in Lebanon in a heavy-handed and inflexible manner that was the primary reason for the political polarization that ensued. Without prejudice to the results of the investigation, it is obvious that this atmosphere provided the backdrop for the assassination of Mr. Hariri.

It became clear to the Mission that the Lebanese investigation process suffers from serious flaws and has neither the capacity nor the commitment to reach a satisfactory and credible conclusion. To uncover the truth, it would be necessary to entrust the investigation to an international independent commission, comprising the different fields of expertise that are usually involved in carrying out similarly large investigations in national systems, with the necessary executive authority to carry out interrogations, searches and other relevant tasks. Furthermore, it is more than doubtful that such an international commission could carry out its tasks satisfactorily — and receive the necessary active cooperation from local authorities — while the current leadership of the Lebanese security services remains in office.

It is the Mission's conclusion that the restoration of the integrity and credibility of the Lebanese security apparatus is of vital importance to the security and stability of the country. A sustained effort to restructure, reform and retrain the Lebanese security services will be necessary to achieve this end, and will certainly require assistance and active engagement on the part of the international community.

Finally, it is the Mission's view that international and regional political support will be necessary to safeguard Lebanon's national unity and to shield its fragile polity from unwarranted pressure. Improving the prospects of peace and security in the region would offer a more solid ground for restoring normalcy in Lebanon.

I. Introduction

1. On 14 February 2005, an explosion in downtown Beirut killed 20 persons, among them the former Prime Minister, Rafik Bahaa-Edine Hariri. Also killed in the explosion were Yahya Mustafa Al-Arab, Mohammad Ben Saad-Eddine Darwish, Talal Nabeeh Nasser, Ziad Mohammad Tarraf, Omar Ahmad Al-Masri, Mohammad Riad Hussein Ghalayeeni, Mazen Adnan Al-Dahabi, Yamama Kamel Dhamen, Haitham Khaled Osman, Alaa Hasan Osfur, Zahi Haleem Abu Rujayli, Joseph Emile Aoun, Rima Mohammad Ra'ef Bezi, Ruad Hussein Haidar, Sobhi Mohammad Al-Khedhr, Abdu Tawfik Bu Farah, Abdel-Hameed Mohammad Ghalayeeni, Mahmud Saleh Al-Khalaf and Mohammad Saleh Al-Hamad Al-Mohammad. In addition to those killed, there is one person, Farhan Ahmad Al-Isa, who is still missing and believed to be among the victims. Another 220 persons were injured.

2. On 15 February, the President of the Security Council had issued a statement on behalf of the Council requesting the Secretary-General "to follow closely the situation in Lebanon and to report urgently on the circumstances, causes and consequences of this terrorist act". The Secretary-General announced on 18 February that he was sending a Fact-finding Mission to Beirut to gather such information as was necessary for him to report to the Council in a timely manner. After an exchange of letters between the Secretary-General and the President of Lebanon, a mission comprising Peter FitzGerald, a Deputy Commissioner of the Irish Police, Garda Siochána, and two police investigators, a legal adviser and a political adviser was sent to Lebanon to gather facts about the causes, circumstances and consequences of the assassination. The Mission was headed by Mr. FitzGerald. Additional experts in explosives, ballistics, DNA and crime scene examination were brought in on 6 March, in agreement with the Lebanese authorities, to examine the crime scene and the samples collected from it.

3. Following its arrival in Beirut on 25 February, the members of the Fact-finding Mission (hereinafter referred to as "the Mission") met with a large number of Lebanese officials and representatives of different political groups, performed a thorough review of the Lebanese investigation and legal proceedings, examined the crime scene and the evidence collected by the local police, collected and analysed samples from the crime scene, and interviewed some witnesses in relation to the crime. Since some of the persons interviewed by the Mission requested anonymity, the present report does not include a full list of the interviewees. The Mission concluded its inquiry in Lebanon on 16 March 2005. This report includes its findings and recommendations.

II. Findings

4. The findings of the Mission fall within three categories as defined by the Security Council: causes, circumstances and consequences.

A. Causes

5. The specific "causes" for the assassination of Mr. Hariri cannot be reliably asserted until after the perpetrators of this crime are brought to justice. However, it is clear that the assassination took place in a political and security context marked

by acute polarization around the Syrian influence in Lebanon and the failure of the Lebanese State to provide adequate protection for its citizens.

The political context

6. Lebanon has repeatedly served as a battleground for the parties to the Arab-Israeli conflict, with devastating impact on its national unity and independence, as demonstrated by its tragic civil war (1975-1990) and by various military campaigns on its soil. The Syrian Arab Republic had maintained a military presence in Lebanon since May 1976 with the consent of the Lebanese Government. It also exerted political influence in Lebanese affairs, an influence that has significantly increased since 1990 and was sanctioned in 1991 by a treaty of "Brotherhood, Cooperation and Coordination".

7. The Syrian presence in Lebanon remained generally unchallenged until Israel withdrew its forces from South Lebanon in 2000. Political figures started to voice their opposition to the continued Syrian influence and called for the implementation of the remaining provisions of the Taif Agreement (of 1989), which, if implemented, would have substantially reduced the Syrian presence in Lebanon to a possible complete pull-out. Although Mr. Hariri carefully avoided this debate, his relations with President Emil Lahoud, who is generally described as the favourite of the Syrian Arab Republic, were strained. As a prominent security official close to the Syrian Arab Republic put it to the Mission, the two men had had repeated conflicts during Mr. Hariri's term (2000-2004) to a point that required "external intervention and mediation on a daily basis". The conflict between Mr. Lahoud and Mr. Hariri affected the latter's ability to run the Government and to carry out his policies, sometimes to the point of paralysis. Mr. Hariri's difficulties with Mr. Lahoud were widely interpreted as a sign of the Syrian Arab Republic's mistrust of the former.

8. Mr. Lahoud's term in office should have ended in 2004, with no possibility of renewal according to the Constitution. Mr. Hariri was clearly hoping that the end of Mr. Lahoud's term would enable him to regain control over his Government. However, during 2004, certain voices in Lebanon suggested amending the Constitution in order to extend the term of Mr. Lahoud. This possibility became part of the debate over the Syrian presence in Lebanon and fuelled it further. Given the distribution of seats in the Parliament, a constitutional amendment required the support of Mr. Hariri's bloc, a support he was unprepared to lend. Moreover, the Mission was informed by reliable sources that Mr. Hariri had managed to obtain a commitment from the Syrian leadership not to extend Mr. Lahoud's term.

9. However, the Syrian leadership later decided to support an extension of the presidential term, albeit for three instead of six years. The pressure for the extension was considerable and divisive and had far-reaching consequences. As a Lebanese official close to the Syrian leadership told the Mission, the Syrian decision had sent a clear message to Mr. Hariri that he had to go: "There was no way the two of them could work together." Mr. Hariri met with President Bashar Assad in Damascus in a last attempt to convince him not to support the extension. The Mission has received accounts of this meeting from various sources inside and outside Lebanon, all of which claim to have heard the account of the meeting from Mr. Hariri himself shortly after the meeting took place. The Mission has no account of the meeting from Mr. Assad's side: the Syrian authorities declined the Mission's request to meet with him. The received testimonies corroborated each other almost verbatim.

10. According to these testimonies, Mr. Hariri reminded Mr. Assad of his pledge not to seek an extension for Mr. Lahoud's term, and Mr. Assad replied that there had been a policy shift and that the decision was already taken. He added that Mr. Lahoud should be viewed as his personal representative in Lebanon and that "opposing him is tantamount to opposing Assad himself". He then added that he (Mr. Assad) "would rather break Lebanon over the heads of (Mr.) Hariri and (Druze leader Walid) Jumblatt than see his word in Lebanon broken". According to the testimonies, Mr. Assad then threatened both Mr. Hariri and Mr. Jumblatt with physical harm if they opposed the extension for Mr. Lahoud. The meeting reportedly lasted for 10 minutes, and was the last time Mr. Hariri met with Mr. Assad. After that meeting, Mr. Hariri told his supporters that they had no other option but to support the extension for Mr. Lahoud. The Mission has also received accounts of further threats made to Mr. Hariri by security officials in case he abstained from voting in favour of the extension or "even thought of leaving the country".

11. On 2 September 2004, the Security Council had adopted its resolution 1559 (2004), which, among other provisions, called upon "all remaining foreign forces to withdraw from Lebanon" and declared "its support for a free and fair electoral process in Lebanon's upcoming presidential elections conducted according to Lebanese constitutional rules devised without foreign interference or influence". It is widely believed, inside and outside Lebanon, that Mr. Hariri lent active support to this resolution. Numerous sources in Lebanon informed the Mission that the Syrian leadership had held Mr. Hariri personally responsible for the adoption of the resolution, and that this resolution marked the end of whatever trust existed between the two sides. On 3 September, the vote on the extension was brought to the Parliament. Mr. Hariri and his parliamentarian bloc voted in its favour. Three ministers voted against it, among them Marwan Hemadeh, a close associate of both Mr. Hariri and Mr. Jumblatt. The amendment was passed, and Mr. Lahoud's term was extended for three years. On 9 September, Mr. Hariri announced his resignation.

12. Political tension reached a new height with that resignation. Additional numbers of political figures joined what later became labelled the "opposition", which mainly called for a review of Syrian-Lebanese relations. Some of the opposition leaders preferred to review these relations in line with Security Council resolution 1559 (2004), while others preferred to review them under the banner of the Taif Agreement. The upcoming legislative elections were widely seen as a turning point and it became apparent to all that the parties were preparing for a final showdown. Until the extension for Mr. Lahoud, the opposition was mainly composed of Christian politicians and groups. The decision by Mr. Jumblatt's bloc to join forces with them was a major development insofar as it expanded the opposition coalition beyond the sectarian dividing lines, especially in light of Mr. Jumblatt's traditional alliance with the Syrian Arab Republic. Mr. Hariri's resignation added more strength to the opposition by bringing in the large and influential Sunni community.

13. On 2 October, former Minister Marwan Hemadeh narrowly escaped death when a bomb exploded next to his car. His guard was killed in the explosion. The attempt on Mr. Hemadeh's life sent shock waves throughout Lebanon and added to the ongoing polarization. The perpetrators of the assassination attempt were not identified, and a general feeling prevailed that they would not be. A loaded atmosphere dominated the Lebanese scene in which "everyone was under threat", as many security officials told the Mission. A wide range of people, inside and outside

Lebanon, told the Mission that Mr. Hariri and Mr. Jumblatt had feared for their lives and saw the attempt on Mr. Hemadeh's life as a part of the ongoing power struggle with the Syrian leadership.

14. Amid the heightened tension, the consolidation of the opposition coalition continued, as well as the preparations for the upcoming legislative elections. Contacts and negotiations took place between Mr. Jumblatt and Mr. Hariri and with the exiled Maronite leader Mr. Michel Aoun. By the end of January 2005, there was a formidable power bloc emerging in Lebanon, bringing together, for the first time, representatives of almost all political and religious communities, with the noted exception of the Shi'ite groups Amal and Hizbollah. This power bloc was independent from, if not hostile to, the Syrian influence and seemed confident of winning a clear majority in the upcoming elections. It also enjoyed the support of key players in the international community and seemed confident of its ability to force the Syrian Arab Republic to implement its outstanding commitment under the Taif Agreement and/or Security Council resolution 1559 (2004). At the centre of this power bloc one man stood as its perceived architect: the former Prime Minister, Rafik Hariri. On 14 February, he was assassinated.

15. Clearly, Mr. Hariri's assassination took place against the backdrop of his power struggle with the Syrian Arab Republic, regardless of who carried out the assassination and with what aim. It is nonetheless important to keep in mind that only a proper investigation — not political analysis — could lead to the identification of those who had ordered, planned and carried out this heinous crime. It would be a violation of the basic principles of justice to jump to conclusions about the perpetrators of the assassination without proper investigation, convincing evidence and a proper trial.

The security background

16. Mr. Hariri was unanimously described to the Mission as the "most important figure in Lebanese public life". His assassination, therefore, begs the question of the level of protection provided to him by the Lebanese security apparatus. The Lebanese security system is composed of multiple agencies. The Military Intelligence occupies a primary position in this set-up: it covers areas of national security, counter-espionage, counter-terrorism and a strike force. It also includes a department for communications interception. "General Security" covers areas related to foreigners, passports and borders, in addition to politically based security issues. An "Internal Security Force" includes both a police force and an information-gathering department. "State Security" is nominally responsible for politically based security issues. The Republican Guard is mandated with protecting the President, under the overall authority of the commander of the Army. The Syrian Military Intelligence maintains a branch in Lebanon, with offices in various places including Beirut. Contrary to the affirmations made to the Mission by its chief, evidence and concurrent testimonies lead us to believe beyond reasonable doubt that this branch played a key role in Lebanese political life and had an active involvement in, if not direct supervision of, the management of security affairs in Lebanon.

17. According to rules and regulations in place, these different agencies coordinate with each other and are all members of a Central Security Council which meets once a month under the Chairpersonship of the Minister of the Interior. However,

numerous sources, including security officials, ministers and former Presidents, told the Mission that the practice follows a different pattern. First, coordination among agencies is almost non-existent; the said Council is more a formality than a coordinating mechanism. Second, reporting lines follow personal and political loyalties rather than constitutional arrangements. Heads of security agencies report the substantive information to "those who appointed them, to whom they have loyalty", assigning only formalities and trivial issues to the Central Security Council. In addition, there is a severe lack of oversight and/or judicial review of the work of security agencies. For instance, the "communication interception" department in Military Intelligence has "standing authorization" to intercept whatever communication is deemed relevant by the department, with the sole endorsement of the head of the agency, without any kind of external oversight or review. Similarly, it is apparent that there is very little, if any, accountability other than that based on informal and extra-constitutional loyalties.

18. This set-up partly explains the lack of trust the Lebanese people seem to have in their security agencies. Almost without exception, all those who spoke to the Mission, including some security officials, expressed doubts about the capacity and/or the will of the security agencies to provide security to political figures under threat. While some accused the security apparatus of outright involvement in threatening politicians, others said that the dominant culture was one in which politicians were expected to protect themselves by their own means or where, at best, the security agencies did not have enough clout to protect the threatened. Many pointed to the fact that Lebanon had witnessed a great number of political assassinations over the previous 30 years and that most of them remained unsolved to date.

19. After discussions with many security officials, including the heads of Military Intelligence, the "Special Forces and Counter-terrorism" department of Military Intelligence, the communication interception department in Military Intelligence, General Security, the Internal Security Forces, and the Republican Guard, the Mission came to the conclusion that there had been a serious failure on the part of the Lebanese security apparatus to predict and prevent the assassination of Mr. Hariri. Despite widespread rumours of threats of physical harm against Mr. Hariri and/or Mr. Jumblatt, including the possibility of attempts on their lives and/or the life of members of their families, and despite the attempt on the life of former Minister Marwan Hemadeh, none of the security services had taken additional measure to protect any of them.

20. All of the security services denied having received information of a threat or a possible threat to Mr. Hariri, Mr. Jumblatt or any members of their families. However, everyone else outside the security services who talked to the Mission seemed aware of those threats. In addition, despite the acknowledged heightened tension, none of the security agencies had prepared an "assessment profile" regarding the security of Mr. Hariri, "the most important political figure in Lebanon". None of the security agencies had suggested or advised that the level of protection provided to Mr. Hariri be raised nor did they attempt this. Quite the contrary: the close protection team provided to Mr. Hariri by the Internal Security Forces was reduced from approximately 40 to 8 persons shortly after he had left office. Although this reduction was in line with the regulations, it still constituted stark negligence in respect of the special circumstances at hand. At the moment of

his assassination. Mr. Hariri's protection was ensured almost entirely by his private security team.

21. When the Mission discussed this aspect with Lebanese security officials, many of them argued that "prevention" was an alien concept to the security management in Lebanon. This argument is inadmissible: prevention is an integral and important part of any functioning security system. In addition, the argument is also untrue: the Republican Guard informed us that they maintained periodic "assessment profiles" regarding the security of the President, including evaluating the level of threat and risk he was subject to based on their reading of the political situation, rumours and the overall security situation. A functioning, credible and professional security apparatus should have prepared, maintained and updated a similar assessment profile in regard to the security of "the most important political figure in Lebanon".

22. Based on the above, it is the view of the Mission that the Lebanese security apparatus failed to provide proper protection for Mr. Hariri and therefore provided a convenient context for his assassination.

B. Circumstances

23. In gathering the facts related to the circumstances, the Mission identified the last movements of Mr. Hariri immediately before the assassination took place, determined the origin of the explosion and the type and weight of explosive used, and reviewed the main avenues of the investigation undertaken by the Lebanese authorities based on accepted international standards. The review of the investigation included the critical areas of: the management of the crime scene; the preservation of evidence; the investigation of the claim of responsibility for the attack broadcast on the television network Al-Jazeera; the investigation of the suspect bomber; the investigation of the suspect vehicle; and general remarks on the investigation's integrity.

The last movements of Mr. Hariri

24. On Monday, 14 February 2005, at approximately 1230 hours, Mr. Hariri left the Parliament building in central Beirut and walked approximately 70 metres to a cafe (Place de l'Etoile) in Nejmeh Square, where he met with a number of people. At approximately 1250 hours he left the cafe accompanied by former Minister and member of Parliament Bassil Fuleihan. His security convoy consisted of six vehicles; first, a jeep with four local policemen (the lead vehicle); second, a black Mercedes with three private security guards; third, a black armour-plated Mercedes driven by Mr. Hariri accompanied by Mr. Fuleihan; fourth, a black Mercedes with three private security guards; fifth, a black Mercedes with three private security guards; and sixth, a black Jeep (an ambulance) bringing up the rear with three private security guards. Three of the Mercedes were equipped with high-powered signal jamming devices (four gigahertz), which were operating at the time of the final journey. All of the vehicles were equipped with firearms and all of the security detail were trained.

25. The chosen route was communicated to the lead car only as Mr. Hariri was leaving the cafe. The convoy left Nejmeh Square and drove along Ahdab Street and on to Fosh Street. At the junction of Fosh Street and Seaport Street, the convoy turned left and took the coast road towards Ain M'reisa and the Hotel St Georges.

26. At exactly 1256:26 hours, Mr. Hariri's convoy was passing directly outside the Hotel St Georges, along a route that it had taken only six times in the preceding three months. A large explosion occurred and resulted in the death of Mr. Hariri, 7 of his security detail and 12 other civilians in the immediate vicinity. Mr. Hariri was brought to the American University Hospital where his body was identified by his personal physician and by the legal physician appointed by the Government. Identification was made possible by body marks, X-ray and dental records. The cause of death had been immediate brain injury resulting in cardiac arrest.

The explosion

27. The Mission examined, analysed and carried out tests at the scene of the explosion over a seven-day period. Its view on the nature and type of the explosion is based on its experts' interpretation of four main elements: (a) the dispersion, size and shape of fragments resulting from the explosion; (b) the size and shape of the crater created by the explosion; (c) ballistics interpretations; and (d) interpretations of the damage to the buildings in and around the area of the explosion.

28. The analysis of the fragments caused by the explosion and of the shape and form of the crater gives indicators equally supportive of hypotheses of a surface and a subterranean explosion. However, the analysis of the damage caused to the buildings in and around the crime scene suggests a surface explosion. The evidence of heat wash on several metal fragments is a clear indicator of a high-explosive charge; the fact that the Mission's experts found evidence of heat wash on fragments of vehicles and on fragments of metal shield holders placed in front of the Hotel St Georges supports the hypothesis of a surface explosion. Metal fragments found sticking in the sides of cars indicate the explosion of a heavy vehicle and the dispersion of such fragments in this direction.

29. Many of the indicators pointing to a subterranean explosion, such as the fragments of, inter alia, the road asphalt and manholes, found in upper floors of the Hotel St Georges, the impact on the vehicle roofs, and the damage to upper floors in the adjacent buildings, are not inconsistent with a surface large explosion.

30. After having conducted all the analyses and the discussions of the samples collected, the Mission's experts came to the conclusion that it had most likely been an explosion above ground, and that the explosive used was trinitrotoluene (TNT) having an approximate weight of 1,000 kilograms.

The crime scene

31. The crime scene was located at Ain M'reisa, City of Beirut, outside the Hotel St Georges. The immediate aftermath of the explosion was a scene of chaos, with multi-agency emergency services, media personnel and hundreds of passers-by and residents of Beirut arriving at the scene to help and observe. Removal of the deceased and injured began almost immediately. Much of the initial service was provided informally by persons who had arrived at the scene prior to the arrival of the emergency services.

32. In the immediate aftermath of the explosion, on 14 February, the investigation of the crime fell within the jurisdiction of the Military Court. Judge Rasheed Mezher of that Court undertook overall responsibility for the management and investigation of the crime, including crime scene management and preservation and collection of

evidence by the competent local authorities. As an act involving the security of the State, the case was referred to the Judicial Council in implementation of the relevant national legislation and on 21 February Judge Michel Abu Araj, Chief Judge of the Criminal Court, was appointed as the investigating Judge, replacing Judge Mezhar.

33. Failure to carry out the most fundamental tasks associated with this responsibility became evident from the very outset when the following was revealed:

(a) The body of a person recovered on 15 February 2005 was deemed to have survived for approximately 12 hours after the blast;

(b) A body was located by accident and recovered on 22 February 2005;

(c) A body was located by family members and recovered on 1 March 2005;

(d) One person has been reported missing and 15 believed to be still at the scene of the explosion.

Preservation of evidence

34. Preservation of evidence, while vital to the success of any investigation, is secondary to the preservation of life and to the recovery of bodies. In this case as in any major emergency, the preservation of the scene was not the primary focus of those emergency service personnel who arrived to render assistance. However, after the initial chaos and the removal of the dead and injured, the security services under the direction and control of the investigating Judge, Mr. Mezhar, should have cleared the area of people and prevented any other unauthorized access to the site. After a detailed search of the area had been completed to ensure that all the dead and injured had been recovered, the site should have been sufficiently secured to preserve all available evidence. The authorities in charge failed to do this.

35. The Mission also identified the following shortcomings:

(a) On 14 February 2005, shortly before midnight, the six vehicles forming Mr. Hariri's convoy and one BMW (not connected with the convoy) were removed from the scene of the explosion and taken to the Helou Police Barracks in the city of Beirut. Although the vehicles were covered after they had been removed, they were now absent from their respective resting places at the site of the explosion, thereby preventing any ballistic analysis, explosive analysis and evidence-gathering at the scene;

(b) Lebanese military, police and intelligence personnel, including explosives experts, interfered with and removed items of possible evidential value without properly documenting, reporting or collating their activities;

(c) Apart from the initial media access to the site in the immediate aftermath of the explosion, the media were given official access to the site on 15 February by Judge Mezhar after the scene had been secured by the security services;

(d) The seat of the explosion (the resulting crater) was flooded with water in the days following the explosion after the local authorities/Police had failed to prevent water from being turned on and released into the crater through the fractured pipes at the scene, thereby damaging or even eliminating vital evidence.

(e) Parts of a pickup truck were brought to the scene by members of the security services, some time after the incident, and were placed in the crater and subsequently photographed and labelled as evidence;

(f) Up until 6 March 2005, the Mission observed that there were large numbers of uniformed personnel and persons in civilian attire wandering around the scene, and that there was no record of persons entering or leaving the scene and no control over removal or placing of items/samples at the scene;

(g) At a meeting with the local investigation's senior management team on 8 March 2005, members of the Mission had requested a chronological report on items relating to the crime scene, namely, access by personnel, evidence gathered, exhibits taken, tests carried out and general crime scene management. On 15 March 2005, the Mission was informed that such a report did not exist and could not be provided;

(h) There is strong evidence to suggest that the investigating judges were not in control of the investigation;

(i) Intelligence/government agencies intruded on the site seemingly without judicial authority and subsequently failed to coordinate findings.

36. It is therefore the Mission's view that the crime scene was not properly managed or preserved and that, as a result, important evidence was either removed or destroyed without record. Those responsible for the mismanagement should be held accountable.

Broadcast on the Al-Jazeera television network

37. At approximately 1330 hours on 14 February 2005, the director and senior presenter at Al-Jazeera TV, Beirut, received a telephone call from a man whom he described as having spoken, poor Arabic or as having just pretended to speak poor Arabic. The caller stated that "the Nasra and Jihad Group in Greater Syria claims responsibility for the execution of the agent Rafik Hariri, in the name of the oppressed, the Nasra and the Jihad". Al-Jazeera broadcast this statement at approximately 1400 hours. At 1419:25 hours, another male person called Al-Jazeera TV and speaking in "very good Arabic" said that a tape could be found in a tree near the United Nations headquarters building in Beirut. A member of the Al-Jazeera staff was instructed to go to the location but the staff member failed to retrieve the videotape. A second Al-Jazeera staff member was sent to retrieve the videotape, resulting in the videotape being retrieved and subsequently handed to the director. At 1527:17 hours, a third call was made to Al-Jazeera TV at which time another male voice asked why the tape had not been broadcast. The director informed the caller that the tape could not be broadcast until a decision had been made at Al-Jazeera headquarters in Qatar. The caller, who was by this time shouting loudly threatened the director stating that he would regret not showing the tape. At 1704:35 hours, a final call was made to Al-Jazeera TV at which time the same male voice, very angry, asked the director whether the tape would be broadcast or not. The director put the caller on hold and it subsequently being determined that the decision had been made to broadcast the tape, the caller was then told that he should watch the television. The tape recording, which was broadcast by the Al-Jazeera network, showed a young bearded man claiming responsibility for the killing of Mr. Hariri on behalf of the Nasra and Jihad Group in Greater Syria. The person who

appeared on the recording has been identified as Ahmad Abu Adas, a resident of Beirut, age 22.

38. On the same date, 14 February 2005, at 1411:25 hours, a consultant with Reuters news agency received a call from a male caller whom she described as not having a Lebanese accent but "using a false Palestinian accent". She stated that the caller, who had been shouting in an authoritative voice, told her to "write down, write down and don't talk" and that "we are the Nasra and Jihad Group in Greater Syria, on this day have we given due punishment to the infidel Rafik Hariri so that he may be an example to others of his sort". On the instruction of an employee (Reuters), the contents of this call were not released because the call could not be authenticated.

39. Of the five calls made to Al-Jazeera and Reuters, the location/origin has been established for four. All locations identified by the police were public telephones in the city of Beirut. The placing of the videotape by a person or persons associated with the killing of Mr. Hariri provided the security forces with an important avenue of investigation. However, the investigation authorities did little to investigate this aspect. Closed circuit television (CCTV) in two critical locations established by members of the Mission was never investigated, witnesses working in the area identified by the Mission were not interviewed, and the most basic investigations were not carried out. Those responsible for this element of the investigation displayed gross negligence.

The suspect

40. Mr. Abu Adas, a male of Palestinian origin, was born in Jeddah (Saudi Arabia) on 29 August 1982 and came to Lebanon with his family in 1991. He is the son of Tayssir Abu Adas and Nehad Mousse Nafeh. He has two sisters, both living in Beirut, and one brother, who is currently residing in Germany. He was unemployed. Investigations show that at approximately 0700 hours, on 16 January 2005, Mr. Abu Adas left his home at Iskandarani Building 6, first floor, Arab University District, in the city of Beirut, and was officially reported missing on 19 January 2005.

41. Enquiries carried out by the Mission established that approximately three years before Mr. Abu Adas had changed from being a carefree teenager and became a religious fundamentalist. Approximately one month prior to being reported missing, Mr. Abu Adas had informed his family that he had met a new friend at the Al-Huri mosque, where he sometimes led the prayers. Information from the mother of Mr. Abu Adas suggested that at approximately 2100 hours on 15 January 2005, the "new friend" made a telephone call to the Abu Adas home and told Mr. Abu Adas that he would be calling for him at 0700 hours on 16 January saying that he had a surprise for Mr. Abu Adas. The mother claimed that at approximately 0700 hours on 16 January someone called for Mr. Abu Adas, alerting him by blowing on a car horn outside the apartment; she further stated that Mr. Abu Adas, who had already been up for prayer, called to ask her for some money and that he took only 2,000 Lebanese liras (approximately one dollar and 33 cents) and said that he would be only a few hours. She also stated that Mr. Abu Adas had asked her to apologize to another friend that he had made an appointment with on that date.

42. On 14 February 2005 the Abu Adas family were watching TV when Al-Jazeera broadcast the videotape showing Mr. Abu Adas claiming responsibility for the killing of Mr. Hariri on behalf of the group Nasra and Jihad in Greater Syria. Al

approximately 2030 hours, on 14 February, the father, mother and younger sister surrendered themselves to the police, at which time all three were arrested. The parents were detained for approximately seven days but the sister was released after the second day. The investigation of Mr. Abu Adas included the arrest and interviewing of the family, interviewing of friends, examination of telephone records, and a search of the home of his parents where he had also lived. Information from the investigation showed that Mr. Abu Adas had a computer at his home, which was seized as part of the investigation. The seized items included 11 videotapes, 55 CDs, 1 floppy disk and a computer hard drive. Other than subversive information/data allegedly found on the hard drive, there was very little indication that Mr. Abu Adas had subversive or violent tendencies.

43. The investigation into this aspect of the crime showed the following flaws:

(a) The officers leading the investigation assured the Mission that Mr. Abu Adas had Internet access from his home and that the information contained on the hard drive of the computer had been downloaded directly onto the computer at his home. Enquiries carried out by the Mission have established that Mr. Abu Adas did not have Internet access from his home and could not have accessed the suggested sites from his personal computer. Enquiries carried out by the Mission indicate that the investigating security forces did not canvass or carry out enquiries at local cybercafés with a view to determining the origin of the alleged data located on the computer of Mr. Abu Adas;

(b) There is little evidence to support the theory that Mr. Abu Adas had militant extremist tendencies;

(c) There is no evidence that Mr. Abu Adas had planned his departure or that he would not be returning, at the time that he left home on 14 January 2005;

(d) There is no intelligence available on the existence of the group Nusra and Jihad in Greater Syria before or after the explosion;

(e) This assassination would have required access to considerable finance, military precision in its execution and substantial logistic support and would have been beyond the capacity of any single individual or small terrorist group. There is no evidence suggesting that Mr. Abu Adas could have had the capacity to plan and execute this assassination on his own, nor did he have the financial capability.

The suspect vehicle

44. A branch of HSBC bank is located close to the scene of the explosion. The bank operates its own CCTV security system which recorded the movements of the Hariri convoy immediately prior to the explosion but did not record the events at the scene of the explosion itself. Copies of the recordings of this CCTV system were taken by a number of Lebanese security agencies soon after the investigation had been initiated. On close scrutiny, the recorded footage showed a white pickup truck entering the area of the explosion shortly before Mr. Hariri's convoy. The recording clearly showed that the white pickup truck had been moving approximately six times slower than all other vehicles surrounding the same stretch of roadway. A time-series analysis showed that, for the 50-60 metres of road covered by the camera, a normal car would take from three to four seconds to cover the distance, while a large truck would take from five to six seconds to cover the distance. The suspect white pickup truck took approximately 22 seconds to travel

the distance and entered the area of the explosion 1 minute and 49 seconds before the Hariri convoy. It is estimated that if the pickup truck had continued at the same speed it would have been exactly at the centre of the explosion approximately 1 minute and 9 seconds before the Hariri convoy. It is estimated that if the pickup truck had continued its journey at the same speed without stopping, it would still have been affected by the force of the blast and would most probably have remained at the scene after the explosion. In order to have avoided the explosion, this pickup truck would have had to speed up considerably, immediately after going out of view of the HSBC CCTV camera. There is no evidence to support this.

43. The Lebanese investigating officers have identified the existence of this pickup truck and its suspicious behaviour as an issue that gives rise to a main/critical avenue of investigation. They have identified the make and model of the suspect vehicle as a Mitsubishi Canter pickup truck (possibly a 1995-1996 model). The investigations carried out by the Lebanese security forces have focused predominantly on determining the actual ownership of the truck by attempting to trace its ownership history through vehicle licensing records, border controls and manufacturing or dealership records. During searches for evidence at the site of the explosion, the security forces allegedly discovered parts of a pickup truck that matched the suspect vehicle and that bore evidence of having been involved in an explosion. The police allegedly discovered in excess of 21 parts of this suspect vehicle in and around the area of the explosion. The main thrust of the security force investigation is focused on this one avenue of investigation. The Mission has determined that this truck, as viewed on the CCTV of the HSBC bank, actually existed and had been at the scene as stated, immediately before the explosion that claimed the life of Mr. Hariri. The Mission also accepts the theory of this truck having been involved in the assassination as a credible one, requiring full and extensive investigation. The Lebanese security forces have recovered small parts of a Mitsubishi truck from the crater, and from the surrounding area of the explosion. They have recovered parts of a Mitsubishi truck from the sea adjacent to the explosion. The Mission recovered a piece of metal from the crater resembling metal used in truck parts and bearing evidence that supports the theory of a surface overground explosion.

44. However, the investigation into this aspect of the case has not been full-fledged or extensive and, in the opinion of the Mission, has been critically and fundamentally damaged owing to the actions and inactions of the security forces on the ground, as follows:

(a) Up to approximately one month after the assassination, little or no attempt had been made by the security forces to determine the movements of this suspect truck immediately prior to or immediately after the explosion. This aspect of the investigation could have uncovered vital evidence including the possible identity of the perpetrator or perpetrators, where the truck was parked immediately before the explosion, and — of critical importance — whether the truck continued on its journey and had no involvement in the assassination at all;

(b) The Mission determined that little or no effort had been made to determine whether the suspect pickup truck continued its journey and that there was little or no effort made to locate CCTV footage or witnesses on the route after the explosion.

(c) The Mission can say with certainty that parts of a truck were brought to the scene of the explosion by a member of the security forces some time after the assassination and were placed in the crater and subsequently photographed in the crater by members of the security forces, thus creating serious suspicion and doubt about the actual involvement of this truck in the assassination and seriously damaging the credibility of the main line of investigation. This line of enquiry is now fundamentally damaged, entailing credibility issues and scope for legal challenge.

47. In sum, the manner in which this element of the investigation was carried out displays, at least, gross negligence, possibly accompanied by criminal actions for which those responsible should be made accountable.

General assessment of investigation

48. Apart from the deficiencies already indicated above, the Mission has noted the following flaws in the Lebanese investigation process:

(a) There was a serious disconnect between the senior members of the local security force investigation team;

(b) There was a lack of coordination between the security force investigation team and the investigating Judges;

(c) There was a lack of focus and control by the senior management responsible for the overall investigation of the crime;

(d) There was a lack of professionalism in the overall crime investigation techniques employed;

(e) There was a total absence of intelligence information and little or no exchange of information among the various agencies engaged in the investigation;

(f) There was an absence of both technical capability and equipment necessary for such an investigation.

49. Based on all of the above, it is the Mission's conclusion that there was a distinct lack of commitment to investigating the crime effectively, and that the investigation was not carried out in accordance with acceptable international standards. The Mission is also of the view that the local investigation has neither the capacity nor the commitment to succeed. It also lacks the confidence of the population necessary for its results to be accepted.

C. Consequences

50. The assassination of Mr. Hariri had an earthquake-like impact on Lebanon. Shock, disbelief, and anxiety were the most common reactions among the people with whom we spoke — shock at the thought that what many considered to have been practices of the past seemed to be coming back; disbelief at the murder of a man whom people regarded as a "larger than life" figure; and anxiety that Lebanon might be sliding back towards chaos and civil strife as a result of that "earthquake". These feelings quickly fused into a strong and unified outcry for "the truth". All those who talked to the Mission indicated that uncovering the truth about the assassination of Mr. Hariri had become their utmost priority and that peace and

tranquillity in Lebanon could not be restored without bringing this crime to an acceptable closure. Many reminded the Mission of previous political assassinations: either they had not been investigated properly or the investigations had not led to convincing results. All of our interlocutors emphasized that this assassination was one too many, that what they described as "the culture of intimidation and brutal use of force" had to come to an end, and that the Lebanese people and their political leaders deserved to live free from fear, intimidation and the risk of physical harm.

51. The families of the victims were understandably still in shock when the Mission met with them. Mr. Hariri's family still could not believe that a man who had devoted his life to the service of his country could be simply eliminated while the truth about his murder hung on an investigation whose credibility was very much in doubt. The families of the other victims — the guards, the workers at the scene, the passers-by, and all those who lost their lives accidentally — were unable to comprehend yet what had happened or why. For all these people the talk about the capabilities of the security services, and the coordination among them, or the political speculations of the populace only increased their pain. All they yearned for now was the truth, for a way to bring this to closure and to allow them to mourn their loved ones.

52. The families of the victims as well as political leaders from different political and communal backgrounds, including officials and members of the Government, have all indicated that the formation of an international and independent investigation commission is the only way to uncover the truth about the assassination of Mr. Hariri. Some of our interlocutors accused the Lebanese and Syrian security services of involvement in the assassination — of wilfully derailing the Lebanese investigation in order to cover up for the crime. Others, from the Government side, indicated that an international investigation would be needed specifically to prove the innocence of the Lebanese security services; but such a result could not be achieved without external help, given the diminished credibility of the Lebanese security services and investigators.

53. During our stay in Lebanon, ordinary people stopped us in the streets of Beirut and thanked us for our efforts to find the truth, urged us not to leave this matter unresolved, and reminded us of the importance of bringing the culprits to justice "for the sake of Lebanon". Posters in the streets of Beirut carry one word, in two languages: *the truth*, *al-haqiqa*. Politicians, officials in the Government at all levels, and even some security officials told us that finding the truth "this time" was crucial for restoring civil peace in the country, reducing the tension and allowing Lebanon to move towards normalcy.

54. In addition, the assassination of Mr. Hariri seems to have unlocked the gates of political upheavals that were simmering throughout the last year. Accusations and counter-accusations are rife and fuel a strongly polarized political debate. Some accuse the Syrian security services and leadership of assassinating Mr. Hariri because he became an insurmountable obstacle to their influence in Lebanon. They argue that his removal became necessary in order for the Syrian Arab Republic to retain control over the Lebanese political polity, especially if the Syrian Arab Republic was forced to withdraw its forces. The adherents of this theory affirm that the Syrian leadership would not mind being the "obvious suspect" and that it has used similar tactics in the past with little or no concern about leaving traces. According to these sources, this attitude is part of the Syrian Arab Republic's

pattern of coercive management of Lebanese affairs. Others claim that the Syrian leadership did not anticipate such strong reactions from the Lebanese people and the international community. In their view, the decision to eliminate Mr. Hariri was "a strategic miscalculation", not dissimilar to other miscalculations made by the Syrian Government.

55. Syrian supporters counter by claiming that Mr. Hariri was assassinated by "the enemies of Syria", those who wanted to exert international pressure on the Syrian leadership in order to accelerate the demise of Syrian influence in Lebanon and/or start a chain of reactions that would eventually force a "regime change" inside the Syrian Arab Republic itself. According to the adherents of this theory, the assassination of Mr. Hariri would have been too gross a mistake for the Syrian leadership to make. The Syrian Arab Republic would have been not only the obvious suspect, but also the obvious loser. Those who maintain this theory reminded the Mission that political assassinations are carried out not in revenge, but in order to lead to certain consequences. The consequences of Mr. Hariri's assassination are, in their view, obviously unfavourable to the Syrian Arab Republic.

56. The assassination quickly widened the gap between the Lebanese political factions and further polarized the political scene to a threatening level. Immediately after the assassination, the political spectrum was divided between "opposition" and "loyalty" camps, crystallizing around the position towards the current Lebanese Government/President and the existing Syrian/Lebanese relationship. Two weeks after the assassination, large numbers of Lebanese took to the streets to express a combination of grief, anger, anxiety and political opposition to the Syrian involvement in Lebanese affairs. The protesters and the opposition leaders accused the Lebanese and Syrian security services of involvement in the assassination and called for the Government to resign and for the Syrian troops and security assets to leave Lebanon. Although Prime Minister Karami had a majority in the Parliament and was confident of winning a confidence vote, he listened to the voice of the street and announced his Government's resignation while the demonstrators were still gathered not far from the Parliament.

57. The protestors and opposition leaders continued their campaign, calling for the dismissal of all the heads of security agencies, a Syrian withdrawal of its army and security assets, the formation of a "neutral" government that would focus on preparing the upcoming legislative elections, and the establishment of an independent international investigation. The loyalty quickly responded by taking to the streets on 8 March when at least half a million people demonstrated in support of the Government and of the Syrian Arab Republic. Immediately afterwards, the Syrian President declared his Government's intention of withdrawing its forces to the Beqa'a valley in implementation of the Taif Agreement of 1989, and as well as of undertaking further withdrawals up to the Syrian border. However, this announcement did not bring the debate over the Syrian presence to an end. Opposition leaders continued to show scepticism regarding Syrian intentions and required a timetable for the full pull-out, with some calling for its completion before the legislative elections.

58. On 14 March, according to available estimates, more than 1 million people gathered in the main square of Beirut and chanted for the "independence" of Lebanon, the creation of an independent international investigation commission, the removal of the heads of security agencies, and the formation of a neutral

government to prepare for the upcoming elections. Fears of a constitutional void were voiced to the Mission, as well as fears of the inability to vote in an electoral law in time or to prepare adequately for the May legislative elections. Many suggested that international supervision of the elections would be necessary to ensure their fairness. They pointed out that a credible election would contribute to stabilizing the political situation. There are also fears of civil strife, as the opposition and loyalty divide is worryingly loaded with intercommunal significance. These political upheavals carry threats to the peace and security of Lebanon, with obvious implications for stability in the region as a whole.

59. Moreover, Lebanese politicians from different backgrounds and allegiances expressed to the Mission their fears that Lebanon would become, once again, a battleground for external forces. Many pointed to the long and tragic civil war as an example of external powers struggling for power through Lebanese actors. They underlined the fragility of the Lebanese polity and its limited ability to sustain pressure. Many political figures emphasized their worry that Lebanon would be caught in a possible showdown between the Syrian Arab Republic and the international community, with possibly devastating consequences for Lebanese peace and security. Lebanese political leaders across the board implored the Mission to call upon the international community not to use Lebanon as a tool of pressure. As one interlocutor told the Mission: "The tool is too fragile, and would easily break."

III. Concluding remarks and recommendations

60. It is the Mission's view that the Lebanese security services and the Syrian Military Intelligence bear the primary responsibility for the lack of security, protection, and law and order in Lebanon. The Lebanese security services have demonstrated serious and systematic negligence in carrying out the duties usually performed by a professional national security apparatus. In doing so, they have severely failed to provide the citizens of Lebanon with an acceptable level of security and have therefore contributed to the propagation of a culture of intimidation and impunity. The Syrian Military Intelligence shares this responsibility to the extent of its involvement in running the security services in Lebanon.

61. Second, it is also the Mission's view that the Government of the Syrian Arab Republic bears primary responsibility for the political tension that preceded the assassination of former Prime Minister, Mr. Hariri. The Government of the Syrian Arab Republic clearly exerted influence that went beyond the reasonable exercise of cooperative or neighbourly relations. It interfered with the details of governance in Lebanon in a heavy-handed and inflexible manner that was the primary reason for the political polarization that ensued. Without prejudice to the results of the investigation, it is obvious that this atmosphere provided the backdrop for the assassination of Mr. Hariri.

62. Third, it became clear to the Mission that the Lebanese investigation process suffered from serious flaws. Whether caused by lack of capabilities or commitment, this process is unlikely to reach a satisfactory conclusion. In addition, the credibility of the Lebanese authorities handling the investigation has been questioned by a great number of Lebanese, in the opposition as well as in government. It is therefore

the Mission's view that an international independent investigation would be necessary to uncover the truth. To carry out such an investigation, there would be need for a self-sufficient team, comprising the different fields of expertise that are usually involved in carrying out similarly large investigations in national systems, with the necessary support staff and resources, and knowledge of the legal and other systems involved. Such a team would need an executive authority to carry out interrogations, searches and other relevant tasks. The team could be assisted and advised by Lebanese legal resources without prejudice to its independence. It is, however, more than doubtful that such an investigation team could carry out its tasks satisfactorily — and receive the necessary active cooperation from local authorities — while the current leadership of the Lebanese security services remains in office.

63. Fourth, it is the Mission's conclusion that the restoration of the integrity and credibility of the Lebanese security apparatus is of vital importance to the security and stability of the country. A sustained effort to restructure, reform and retrain the Lebanese security services will be necessary to achieve this end, and will certainly require assistance and active engagement on the part of the international community. Based on the Mission's review of the current set-up of the Lebanese security apparatus, six main areas have been identified as priorities for security reform: (a) decoupling security from politics and establishing a professional service; (b) nationalizing the security apparatus by disentangling it from external influence and by raising it above sectarianism; (c) establishing a democratic police service, with special attention to the rule of law and human rights; (d) establishing clear lines of reporting; (e) capacity-building; and (f) introducing clear mechanisms for accountability and judicial oversight.

64. Finally, it is also the Mission's view that international and regional political support will be necessary to safeguard Lebanon's national unity and to shield its fragile polity from unwarranted pressure. Improving the prospects for peace and security in the region would offer a more solid ground for restoring normalcy in Lebanon.

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Report of the Secretary-General on the United Nations Observer Mission in Bougainville (Papua New Guinea)

I. Introduction

1. The present report is submitted pursuant to the letter dated 23 December 2004 from the President of the Security Council to the Secretary-General (S/2004/1016), in which the Council, inter alia, took note of the Secretary-General's recommendation to extend the mandate of the United Nations Observer Mission in Bougainville (UNOMB) until 30 June 2005, and requested the Secretary-General to present a report on "an assessment of the ground situation and on a mission-closure plan". The present report reviews the progress achieved by the parties to the Bougainville Peace Agreement since the last briefing to the Council, on 22 December 2004, in the preparations for elections, in the reconciliation with the leaders of the "no-go zone", in weapons disposal, in the law and order situation and in post-conflict peacebuilding. It also elaborates on the Mission's closure plan.

II. Assessment of the situation

A. Preparations for the election of an autonomous Bougainville Government

2. The Provincial Administration of Bougainville, with the support of the National Election Commission, has made detailed plans for the upcoming elections, which will bring about the establishment of the first autonomous Bougainville Government. All electoral processes have been costed and the estimates submitted to the national Government for funding approval. The Administration has finalized a report on the boundaries of provincial constituencies. It is working on updating and consolidating the common roll of the province, including the "no-go zone". It is expected that the consolidated common roll will be completed by 7 April 2005.

3. On 11 March, the Transitional Consultative Committee, which is composed of members of the Bougainville Interim Provincial Government and Bougainville People's Congress, asked my representative, head of the United Nations Observer Mission in Bougainville, to provide clarifications on whether a potential delay in electoral processes could force the Mission to stay beyond 30 June 2005. A follow-up question-and-answer session helped the Committee make a firm commitment to proceed with elections according to the previously discussed plan. The Committee

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decided that polling will be held from 20 May to 2 June 2005. This decision has been gazetted.

4. The elections will be for the presidency and the Bougainville legislature, to be known as the House of Representatives. The House will consist of 33 members representing their respective constituencies, together with three women and three former combatant members, one of each elected for each of Bougainville's three regions — North, Central and South. The President will be elected directly on a Bougainville-wide ballot, while the Speaker will be elected from outside the House by its members.

5. The Bougainville electoral officers are experienced and have conducted elections on Bougainville in previous years, the latest being the national elections held in 2002. The Bougainville leaders are working hard to maintain their past good record during the upcoming election of the autonomous Bougainville Government. Plans are in place to provide security for personnel and ballot boxes. The community police, assisted by the regular Bougainville police, will provide the required assistance. Community leaders and volunteers from among former combatants, with the facilitation of UNOMB, are carrying out an election public-awareness campaign with the rank-and-file members of the Mekamui Defence Force (MDF) in the "no-go zone". As a result of this campaign, a significant number of MDF members have expressed support for and willingness to take part in the elections, giving assurances not to interfere with the democratic process.

6. Both the national Government and the Bougainville leaders expressed their desire to have international observers present during the elections. In their view, such a presence will enhance the confidence and trust of the Bougainville people in the peace process and in their ability to exercise their right to vote in a free and transparent manner. The Papua New Guinea Government is working on a request to the United Nations, regional organizations and interested neighbouring countries to provide election observers.

II. Developments around the "no-go zone"

7. In what can be described as a historic event, UNOMB facilitated a meeting on 8 March 2005 where several political leaders of Bougainville, former military leaders and combatants of the Bougainville Revolutionary Army and the Bougainville Resistance Force discussed for the first time the peace process with 100 key players of MDF. At the meeting it was decided to continue to hold similar exchanges in the near future in order to sort out differences and to work together for the better future of Bougainville. The Mekamui representatives also pledged not to interrupt the electoral process.

8. At the second meeting, held in Arawa on 17 March 2005, the participants discussed the issues of lifting the last roadblock at Morgan Junction, reconciliation between Francis Ona, the leader in the "no-go zone", and Joseph Kabui, President of the Bougainville People's Congress, and the upcoming elections. Mr. Kabui has expressed his readiness to meet Mr. Ona to initiate the process of reconciliation. Sources close to Mr. Ona have also informed UNOMB that he is ready to reciprocate. Such a reconciliation would be a breakthrough in relations between their factions. It would bode well for a potential opening of the "no-go zone" and

the provision of government services to the population living in the zone. UNOMB will continue to provide logistical and other support to the parties in this matter.

C. Weapons disposal

9. UNOMB has destroyed most of the 2,014 weapons originally placed in containers in accordance with the weapons disposal plan. It is working now, through community leaders, to persuade former combatants to destroy the remaining weapons, which are kept in secure storage, and UNOMB is optimistic that the issue of weapons disposal will be positively resolved before the election. To this end, UNOMB will maintain close consultations with both the national Government and the Bougainville parties.

D. Law and order

10. The general situation on the ground is steadily improving. The deployment of Bougainville regular police in Bougainville has so far produced good results. The people of Bougainville have repeatedly commented on security improvements and increased freedom of movement as tangible outcomes of the successful implementation of the Peace Agreement. As of now, 116 Bougainville Police are on active duty in the province, and 50 more will be graduating from the Police Academy in Bomana, Port Moresby, by the end of this month. They will be deployed before the election starts. In addition, 383 community police officers are functioning in their respective villages in most areas on the island. The police will play an important role in the provision of security in the upcoming elections. The Bougainville Administration and the Police meet regularly to coordinate their respective roles in the preparations for and during the conduct of elections.

11. The National Court has resumed its hearings in Buka for the first time in four years to try a backlog of cases that have accumulated since then. Progress has already been achieved in this area. The establishment of correctional institutions, however, is lagging behind, thereby impinging on human rights issues. To remedy the situation, the Provincial Administration is working in close cooperation with the representatives of the Law and Justice Programme, funded by the regional donors, to expedite the construction and renovation of the required institutions.

E. Post-conflict peacebuilding

12. The enormous rehabilitation and recovery challenges that the autonomous Bougainville Government will confront upon its establishment will call for speedy delivery and decision-making mechanisms; capacity-building will have to be one of its priorities. As an ongoing process, it will require the continued assistance of United Nations agencies and programmes and the donor community.

13. The United Nations Development Programme (UNDP) will implement its Bougainville Planning and Community Support Programme project. Its focus will be on: (a) capacity-building in planning and management skills, (b) support for the peace process through leadership, human rights advocacy and social activities and (c) strengthening economic development and livelihood opportunities.

14. The United Nations Children's Fund (UNICEF) plans to expand its activities in Bougainville in 2005 through the conduct of further courses within the volunteer teacher training programme. Ongoing support will be provided to a total of 60 volunteer teachers from 40 schools in the "no-go zone" who have already undergone training and received teaching materials in the form of "school in the box" kits. UNICEF will work jointly with the Peace Foundation Melanesia to carry out peace training activities for children, young people and elders. About 150 people from the "no-go zone" are expected to be covered by this programme. Other identified activities of UNICEF will include the provision of supplies and transport to the Provincial AIDS Councils, the establishment of a women's and children's desk in Arawa, a pilot project on a juvenile justice programme and community-based inquiries into violence against children.

15. Donor assistance for the implementation of autonomy on Bougainville will be channelled through the Governance and Implementation Fund. The agreed steps and priorities of that implementation are provided for in the Joint Working Plan of the Papua New Guinea Government and the Bougainville Administration. Given the presence of various international players, UNDP and major donors are encouraging the Bougainville Administration to take the lead in coordinating the distribution of assistance to be provided by the international community in accordance with the priorities specified in the Joint Working Plan.

III. Mission-closure plan

16. Given the progress achieved by the parties in weapons disposal and in the preparations for elections, and barring any unforeseen complications, UNOMB will complete its mandate and formally close down its activities on 30 June 2005. In the interim, the Mission will continue to monitor the situation prior to and during the election in order to be ready, if requested by any of the parties, to verify and certify substantial compliance by the parties in the handing-in of weapons and whether the level of security is conducive to the holding of elections. Any complaints or inquiries in this connection would have to be promptly considered by the Peace Process Consultative Committee, chaired by UNOMB.

17. The developments on the ground, especially the initiation of the reconciliation process between the Bougainville leaders and MDF, facilitated by UNOMB, bode well for the successful conduct of elections and the establishment of the autonomous Bougainville Government. In this light, UNOMB plans to call the last meeting of the Peace Process Consultative Committee in mid-June 2005, immediately after the elections have been concluded, in order formally to dissolve this main body established under the Agreement, as it will have achieved its founding objectives.

IV. Observations

18. Given the pace of electoral preparations and the commitment of the Government of Papua New Guinea and the Bougainville parties to hold elections from 20 May to 2 June 2005, I expect that an autonomous Bougainville Government will be set up before the closure of UNOMB on 30 June 2005. With the establishment of the Bougainville Government, the political role of the United Nations in the peace process will have been successfully completed. From that

moment, the United Nations developmental and humanitarian agencies and the donor community will take the lead in helping the autonomous Bougainville Government to implement its rehabilitation and capacity-building programmes, thereby consolidating the outcomes of the political process.

19. The success of the Bougainville peace process so far has been secured through consistent and cooperative efforts of the Papua New Guinea Government and the Bougainville parties to the peace agreements and the strong support of the neighbouring States and donor countries. UNOMB and its predecessor have also played a significant role in facilitating those efforts. They have set an example of how a small United Nations team can work efficiently and effectively.

United Nations A/59/755–S/2005/205

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General Assembly
Fifty-ninth session
Agenda item 29
Question of Cyprus

Security Council
Sixtieth year

Letter dated 24 March 2005 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General

Upon instructions from my Government and further to my letter dated 7 January 2005 addressed to you (A/59/696-S/2005/75), I have the honour to draw your attention to new violations of the flight information region (FIR) of Nicosia and the national airspace of the Republic of Cyprus by military aircraft of the Turkish Air Force, recorded on 2, 9, 14, 21 and 23 February and 2, 3, 9, 11, 14, 16, 21 and 22 March 2005, as follows:

On 2 February 2005, one C-160 Turkish military aircraft entered the FIR of Nicosia, violating international air traffic regulations and the national airspace of Nicosia, flying over the occupied area of Mesaoria, before landing at the illegal airport of Tymbou, from where it departed on the same day towards the FIR of Ankara.

On 9 February 2005, one C-130 Turkish military aircraft entered the FIR of Nicosia, violating international air traffic regulations and the national airspace of Nicosia, flying over the occupied area of Mesaoria, before landing at the illegal airport of Tymbou, from where it departed on the same day towards the FIR of Ankara.

On 14 February 2005, one C-160 Turkish military aircraft entered the FIR of Nicosia, violating international air traffic regulations and the national airspace of Nicosia, flying over the occupied area of Mesaoria, before landing at the illegal airport of Tymbou, from where it departed on the same day towards the FIR of Ankara.

On 21 February 2005, one Gulfstream Turkish military aircraft entered the FIR of Nicosia, violating international air traffic regulations, before exiting in a south-westerly direction.

On 23 February 2005, one C-130 Turkish military aircraft entered the FIR of Nicosia, violating international air traffic regulations and the national airspace of Nicosia, flying over the occupied area of Mesaoria, before landing at the illegal

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airport of Tymbou, from where it departed on the same day towards the FIR of Ankara.

On the same day, one Gulfstream Turkish military aircraft coming from a south-westerly direction entered the FIR of Nicosia, violating international air traffic regulations, before exiting towards the FIR of Ankara.

On the same day, one Cougar Turkish military aircraft took off from the illegal airport of Krini, violating international air traffic regulations and the national airspace of Nicosia, flying over the occupied areas of Mesaoria and Ammochostos, before landing at the same airport.

On 2 March 2005, one C-160 Turkish military aircraft entered the FIR of Nicosia, violating international air traffic regulations and the national airspace of Nicosia, flying over the occupied area of Mesaoria, before landing at the illegal airport of Tymbou, from where it departed on the same day towards the FIR of Ankara.

On the same day, two Turkish military aircraft of unknown type took off from the illegal airport of Krini, violating international air traffic regulations and the national airspace of Nicosia, flying over the occupied areas of Mesaoria and Ammochostos, before landing at the same airport.

On 3 March 2005, one C-160 Turkish military aircraft entered the FIR of Nicosia, violating international air traffic regulations and the national airspace of Nicosia, flying over the occupied area of Mesaoria, before landing at the illegal airport of Tymbou, from where it departed on the same day towards the FIR of Ankara.

On 9 March 2005, one C-130 Turkish military aircraft entered the FIR of Nicosia, violating international air traffic regulations and the national airspace of Nicosia, flying over the occupied area of Mesaoria, before landing at the illegal airport of Tymbou, from where it departed on the same day towards the FIR of Ankara.

On the same day, one CN-235 Turkish military aircraft entered the FIR of Nicosia, violating international air traffic regulations, before exiting towards the FIR of Ankara.

On 11 and 14 March 2005, two Turkish military aircraft of unknown type took off from the illegal airport of Krini, violating international air traffic regulations and the national airspace of Nicosia, flying over the occupied areas of Mesaoria and Ammochostos, before landing at the same airport.

On 16 March 2005, one C-160 Turkish military aircraft and one Turkish military aircraft of unknown type entered the FIR of Nicosia and carried out a total of three violations of international air traffic regulations and the national airspace of Nicosia, as follows:

(a) The C-160 Turkish military aircraft coming from the FIR of Ankara entered the FIR of Nicosia, violating international air traffic regulations and the national airspace of Nicosia, flying over the occupied area of Mesaoria, before landing at the illegal airport of Tymbou, from where it departed on the same day towards the FIR of Ankara;

(b) The Turkish military aircraft of unknown type took off from the illegal airport of Krini, violating the national airspace of the Republic of Cyprus, flying over the occupied area of Mesaoria, before landing at the illegal airport of Tymbou, from where it departed, flying over the occupied area of Ammochostos before landing at the illegal airport of Krini.

On 21 March 2005, one C-130 and one B-200 Turkish military aircraft coming from the FIR of Ankara entered the FIR of Nicosia and carried out a total of four violations of international air traffic regulations and the national airspace of Nicosia, flying over the occupied area of Mesaoria, before landing at the illegal airport of Tymbou, from where they departed on the same day towards the FIR of Ankara.

On 23 March 2005, one C-130 Turkish military aircraft and one Turkish military aircraft of unknown type entered the FIR of Nicosia and carried out a total of three violations of international air traffic regulations and the national airspace of Nicosia, as follows:

(a) The C-130 Turkish military aircraft coming from the FIR of Ankara entered the FIR of Nicosia, violating international air traffic regulations and the national airspace of Nicosia, flying over the occupied area of Mesaoria, before landing at the illegal airport of Tymbou, from where it departed on the same day towards the FIR of Ankara;

(b) The Turkish military aircraft of unknown type took off from the illegal airport of Tymbou, violating the national airspace of the Republic of Cyprus, flying over the occupied area of Mesaoria, before exiting towards the FIR of Ankara.

On behalf of the Government of the Republic of Cyprus, I strongly protest the above-cited violations, which not only constitute a serious breach of international law but also seriously endanger international civil aviation, and call for their immediate cessation. Furthermore, such violations maintain a climate of tension and confrontation and hinder efforts for improving the situation on the ground in all fields. It is with great regret that we witness a continuation of Turkey's provocative acts and its insistence on promoting and upgrading a secessionist entity in Cyprus, undermining thus any efforts towards reconciliation and reunification of the island.

Particularly, in view of the opening of accession negotiations with the European Union, Turkey should reconsider its policy on Cyprus, abide by Security Council resolutions and respect the sovereignty, independence and territorial integrity of the Republic of Cyprus. My Government strongly believes that the cessation of violations of the airspace of the Republic of Cyprus could be a significant step in the right direction.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda item 29, and of the Security Council.

(*Signed*) Andreas D. **Mavroyiannis**

United Nations S/2005/206

Security Council

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28 March 2005

Original: English

United States of America: draft resolution

The Security Council,

Recalling its resolutions 1547 (2004) of 11 June 2004, 1556 (2004) of 30 July 2004, 1564 (2004) of 18 September 2004, 1574 (2004) of 19 November 2004, 1585 (2005) of 10 March 2005, 1588 (2005) of 17 March 2005, and 1590 of 24 March 2005, and statements of its President concerning Sudan,

Reaffirming its commitment to the sovereignty, unity, independence and territorial integrity of Sudan, and recalling the importance of the principles of good neighbourliness, non-interference and regional cooperation,

Recalling the commitments made by the parties in the 8 April N'djamena Ceasefire Agreement and the 9 November 2004 Abuja Humanitarian and Security Protocols between the Government of Sudan, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM), and recalling the commitments made in the Joint Communique of 3 July 2004 between the Government of Sudan and the Secretary-General,

Welcoming the signing of the Comprehensive Peace Agreement between the Government of Sudan (GOS) and the Sudan People's Liberation Movement/Army (SPLM/A) in Nairobi, Kenya on 9 January 2005,

Recognizing that the parties to the Comprehensive Peace Agreement must build on the Agreement to bring peace and stability to the entire country, and calling on all Sudanese parties, in particular those party to the Comprehensive Peace Agreement, to take immediate steps to achieve a peaceful settlement to the conflict in Darfur and to take all necessary action to prevent further violations of human rights and international humanitarian law and to put an end to impunity, including in the Darfur region,

Expressing its utmost concern over the dire consequences of the prolonged conflict for the civilian population in the Darfur region as well as throughout Sudan, in particular the increase in the number of refugees and internally displaced persons,

Considering that the voluntary and sustainable return of refugees and internally displaced persons will be a critical factor for the consolidation of the peace process,

Expressing also its deep concern for the security of humanitarian workers and their access to populations in need, including refugees, internally displaced persons and other war-affected populations,

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Condemning the continued violations of the N'djamena Ceasefire Agreement of 8 April 2004 and the Abuja Protocols of 9 November 2004 by all sides in Darfur and the deterioration of the security situation and negative impact this has had on humanitarian assistance efforts,

Strongly condemning all violations of human rights and international humanitarian law in the Darfur region, in particular the continuation of violence against civilians and sexual violence against women and girls since the adoption of resolution 1574 (2004), urging all parties to take necessary steps to prevent further violations, and expressing its determination to ensure that those responsible for all such violations are identified and brought to justice without delay,

Recognizing that international support for implementation of the Comprehensive Peace Agreement is critically important to its success, emphasizing that progress towards resolution of the conflict in Darfur would create conditions conducive for delivery of such assistance, and alarmed that the violence in Darfur nonetheless continues,

Recalling the demands, in resolutions 1556 (2004), 1564 (2004), and 1574 (2004), that all parties to the conflict in Darfur refrain from any violence against civilians and cooperate fully with the African Union Mission in Darfur,

Welcoming the 16 February 2005 N'djamena Summit on Darfur and the continued commitment of the African Union to play a key role in facilitating a resolution to the conflict in Darfur in all respects, and the announcement by the Government of Sudan on 16 February 2005 that it would take immediate steps, including withdrawal of its forces from Labado, Qarifa, and Marla in Darfur, and the withdrawal of its Antonov aircraft from Darfur,

Commending the efforts of the African Union, in particular its Chairman, acknowledging the progress made by the African Union in the deployment of an international protection force, police, and military observers, and calling on all member states to contribute generously and urgently to the African Union Mission in Darfur,

Reaffirming its resolutions 1325 (2000) on women, peace, and security, 1379 (2001) and 1460 (2003) on children in armed conflicts, as well as resolutions 1265 (1999) and 1296 (2000) on the protection of civilians in armed conflicts and resolution 1502 (2003) on the protection of humanitarian and UN personnel,

Taking note of the Secretary-General's reports of 31 January 2005 (S/2005/57 and Add.1), 3 December 2004 (S/2004/947), 4 February 2005 (S/2005/68), and 4 March 2005 (S/2005/140), as well as the report of 25 January 2005 of the International Commission of Inquiry (S/2005/60),

Determining that the situation in Sudan continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Deplores strongly* that the Government of Sudan and rebel forces and all other armed groups in Darfur have failed to comply fully with their commitments and the demands of the Council referred to in resolutions 1556 (2004), 1564 (2004), and 1574 (2004), condemns the continued violations of the 8 April 2004 N'djamena Ceasefire Agreement and the 9 November 2004 Abuja Protocols, including air

strikes by the Government of Sudan in December 2004 and January 2005 and rebel attacks on Darfur villages in January 2005, and the failure of the Government of Sudan to disarm Janjaweed militiamen and apprehend and bring to justice Janajaweed leaders and their associates who have carried out human rights and international humanitarian law violations and other atrocities, and demands that all parties take immediate steps to fulfil all their commitments to respect the N'djamena Ceasefire Agreement and the Abuja Protocols, including notification of force positions, to facilitate humanitarian assistance, and to cooperate fully with the African Union Mission;

2. *Emphasizes* that there can be no military solution to the conflict in Darfur, and calls upon the Government of Sudan and the rebel groups, particularly the Justice and Equality Movement and the Sudanese Liberation Movement/Army to resume the Abuja talks rapidly without preconditions and negotiate in good faith to speedily reach agreement, and urges the parties to the Comprehensive Peace Agreement to play an active and constructive role in support of the Abuja talks and take immediate steps to support a peaceful settlement to the conflict in Darfur;

3. *Decides*, in light of the failure of all parties to the conflict in Darfur to fulfil their commitments,

(a) to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council (herein "the Committee"), to undertake to following tasks:

i. to monitor implementation of the measures referred to in subparagraphs (d) and (e) of this paragraph and paragraphs 7 and 8 of resolution 1556 (2004), and paragraph 7 below;

ii. to designate those individuals subject to the measures imposed by subparagraphs (d) and (e) of this paragraph and to consider requests for exemptions in accordance with subparagraphs (f) and (g);

iii. to establish such guidelines as may be necessary to facilitate the implementation of the measures imposed by subparagraphs (d) and (e);

iv. to report at least every 90 days to the Security Council on its work;

v. to consider requests from and, as appropriate, provide prior approval to the Government of Sudan for the movement of military equipment and supplies into the Darfur region in accordance with paragraph 7 below;

vi. to assess reports from the Panel of Experts established under subparagraph (b) of this paragraph, and Member States, in particular those in the region, on specific steps they are taking to implement the measures imposed by subparagraphs (d) and (e) and paragraph 7 below;

vii. to encourage a dialogue between the Committee and interested Member States, in particular those in the region, including by inviting representatives of such States to meet with the Committee to discuss implementation of the measures;

(b) to request the Secretary-General, in consultation with the Committee, to appoint for a period of six months, within 30 days of adoption of this resolution, a Panel of Experts comprised of four members and based in Addis Ababa, Ethiopia, to

travel regularly to El-Fasher, Sudan and other locations in Sudan, and to operate under the direction of the Committee to undertake the following tasks:

i. to assist the Committee in monitoring implementation of the measures in subparagraphs (d) and (e), paragraphs 7 and 8 of resolution 1556 (2004), and paragraph 7 of this resolution, and to make recommendations to the Committee on actions the Council may want to consider;

ii. to provide a mid-term briefing on its work to the Committee, and an interim report no later than 90 days after adoption of this resolution, and a final report no later than 30 days prior to termination of its mandate to the Council through the Committee with its findings and recommendations; and

iii. to coordinate its activities as appropriate with ongoing operations of the African Union Mission in Sudan (AMIS);

(c) that those individuals, as designated by the Committee established by subparagraph (a) above, based on the information provided by Member States, the Secretary-General, the High Commissioner for Human Rights or the Panel of Experts established under subparagraph (b) of this paragraph above, and other relevant sources, who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, violate the measures implemented by Member States in accordance with paragraphs 7 and 8 of resolution 1556 (2004) and paragraph 7 of this resolution as implemented by a state, or are responsible for offensive military overflights described in paragraph 6 of this resolution, shall be subject to the measures identified in subparagraphs (d) and (e) below;

(d) that all States shall take the necessary measures to prevent entry into or transit through their territories of all persons as designated by the Committee pursuant to subparagraph (c) above, provided that nothing in this paragraph shall obligate a State to refuse entry into its territory to its own nationals;

(e) that all States shall freeze all funds, financial assets and economic resources that are on their territories on the date of adoption of this resolution or at any time thereafter, that are owned or controlled, directly or indirectly, by the persons designated by the Committee pursuant to subparagraph (c) above, or that are held by entities owned or controlled, directly or indirectly, by such persons or by persons acting on their behalf or at their direction, and decides further that all States shall ensure that no funds, financial assets or economic resources are made available by their nationals or by any persons within their territories to or for the benefit of such persons or entities;

(f) that the measures imposed by subparagraph (d) above shall not apply where the Committee established by subparagraph (a) above determines on a case by case basis that such travel is justified on the ground of humanitarian need, including religious obligation, or where the Committee concludes that an exemption would otherwise further the objectives of the Council's resolutions for the creation of peace and stability in Sudan and the region;

(g) that the measures imposed by subparagraph (e) of this resolution do not apply to funds, other financial assets and economic resources that:

i. have been determined by relevant States to be necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and

medical treatment, taxes, insurance premiums, and public utility charges or for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, other financial assets and economic resources, after notification by the relevant States to the Committee of the intention to authorize, where appropriate, access to such funds, other financial assets and economic resources and in the absence of a negative decision by the Committee within two working days of such notification;

ii. have been determined by relevant States to be necessary for extraordinary expenses, provided that such determination has been notified by the relevant States to the Committee and has been approved by the Committee, or

iii. have been determined by relevant States to be the subject of a judicial, administrative or arbitral lien or judgment, in which case the funds, or other financial assets and economic resources may be used to satisfy that lien or judgment provided that the lien or judgment was entered prior to the date of the present resolution, is not for the benefit of a person or entity designated by the Committee, and has been notified by the relevant States to the Committee;

4. *Decides* that the measures referred to in subparagraphs 3 (d) and (e) shall enter into force 30 days from the date of adoption of this resolution, unless the Security Council determines before then that the parties to the conflict in Darfur have complied with all the commitments and demands referred to in paragraph 1 above and paragraph 6 below;

5. *Expresses* its readiness to consider the modification or termination of the measures under paragraph 3, on the recommendation of the Committee or at the end of a period of 12 months from the date of adoption of this resolution, or earlier if the Security Council determines before then that the parties to the conflict in Darfur have complied with all the commitments and demands referred to in paragraph 1 above and paragraph 6 below;

6. *Demands* that the Government of Sudan, in accordance with its commitments under the 8 April 2004 N'djamena Ceasefire Agreement and the 9 November 2004 Abuja Security Protocol, immediately cease conducting offensive military flights in and over the Darfur region, and invites the African Union Ceasefire Commission to share pertinent information as appropriate in this regard with the Secretary-General, the Committee, or the Panel of Experts established under paragraph 3 (b);

7. *Reaffirms* the measures imposed by paragraphs 7 and 8 of resolution 1556 (2004), and decides that these measures shall immediately upon adoption of this resolution, also apply to all the parties to the N'djamena Ceasefire Agreement and any other belligerents in the states of North Darfur, South Darfur and West Darfur; decides that these measures shall not apply to the supplies and related technical training and assistance listed in paragraph 9 of resolution 1556 (2004); decides that these measures shall not apply with respect to assistance and supplies provided in support of implementation of the Comprehensive Peace Agreement; further decides that these measures shall not apply to movements of military equipment and supplies into the Darfur region that are approved in advance by the

Committee established under paragraph 3 (a) upon a request by the Government of Sudan; and invites the African Union Ceasefire Commission to share pertinent information as appropriate in this regard with the Secretary-General, the Committee, or the Panel of Experts established under paragraph 3 (b);

8. *Reiterates* that, in the event the parties fail to fulfil their commitments and demands as outlined in paragraphs 1 and 6, and the situation in Darfur continues to deteriorate, the Council will consider further measures as provided for in Article 41 of the Charter of the United Nations;

9. *Decides* to remain seized of the matter.

United Nations S/2005/207

Security Council

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Original: French

Draft resolution

The Security Council,

Recalling its previous resolutions and the statements by its President concerning the Democratic Republic of the Congo, in particular resolution 1565 of 1 October 2004, and the statement of 2 March 2005 (S/PRST/2005/10),

Reaffirming its commitment to respect the sovereignty, territorial integrity and political independence of the Democratic Republic of the Congo as well as of all States in the region, and its support for the process of the Global and All-Inclusive Agreement on the Transition in the Democratic Republic of the Congo, signed in Pretoria on 17 December 2002, and calling on all the Congolese parties to honour their commitments in this regard, in particular so that free, fair and peaceful elections can take place,

Reiterating its serious concern regarding the continuation of hostilities by armed groups and militias in the eastern part of the Democratic Republic of the Congo, particularly in the provinces of North and South Kivu and in the Ituri district, and by the grave violations of human rights and of international humanitarian law that accompany them, *calling on* the Government of National Unity and Transition to bring the perpetrators to justice without delay, and *recognizing* that the continuing presence of ex-Forces armées rwandaises and Interahamwe elements remains a threat for the local civilian population and an impediment to good-neighbourly relations between the Democratic Republic of the Congo and Rwanda,

Welcoming in this regard the African Union's support for efforts to further peace in the eastern part of the Democratic Republic of the Congo, and *calling on* the African Union to work closely with MONUC in defining its role in the region,

Recalling its condemnation of the attack by one of these militias against members of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), on 25 February 2005, and *welcoming* the first steps taken to date to bring them to justice, in particular the arrests of militia leaders suspected of bearing responsibility for human rights abuses,

Reiterating its call on the Congolese parties, when selecting individuals for key posts in the Government of National Unity and Transition, including the Armed Forces and National Police, to take into account the record and commitment of those individuals with regard to respect for international humanitarian law and human rights,

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Recalling that all the parties bear responsibility for ensuring security with respect to civilian populations, in particular women, children and other vulnerable persons, and *expressing concern* at the continuing levels of sexual violence,

Reaffirming its full support for MONUC and for its personnel, who operate in particularly hazardous conditions, and *welcoming* the robust action it is undertaking in pursuit of its mandate,

Recalling the link between the illicit exploitation and trade of natural resources in certain regions and the fuelling of armed conflicts, *condemning categorically* the illegal exploitation of natural resources and other sources of wealth of the Democratic Republic of the Congo, and *urging* all States, especially those in the region including the Democratic Republic of the Congo itself, to take appropriate steps in order to end these illegal activities,

Bearing in mind the third special report of the Secretary-General on MONUC dated 7 August 2004 (S/2004/650), and its recommendations, and *aware* of the importance of keeping under review the situation in the Katanga and Kasai provinces,

Taking note of the seventeenth report of the Secretary-General on MONUC dated 21 March 2005 (S/2005/167), and *looking forward* to the special report on the electoral process announced by the Secretary-General in paragraph 54 of his seventeenth report,

Noting that the situation in the Democratic Republic of the Congo continues to constitute a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to extend the mandate of MONUC, as contained in resolution 1565, until 1 October 2005, with the intention to renew it for further periods;

2. *Reaffirms its demand* that all parties cooperate fully with the operations of MONUC and that they ensure the safety of, as well as unhindered and immediate access for, United Nations and associated personnel in carrying out their mandate, throughout the territory of the Democratic Republic of the Congo, and in particular that all parties provide full access to MONUC military observers, including to all ports, airports, airfields, military bases and border crossings, and *requests* the Secretary-General to report without delay any failure to comply with these demands;

3. Urges the Government of National Unity and Transition to do its utmost to ensure the security of civilians, including humanitarian personnel, by effectively extending State authority throughout the territory of the Democratic Republic of the Congo and in particular in North and South Kivu and in Ituri;

4. Calls on the Government of National Unity and Transition to carry out reform of the security sector, through the expeditious integration of the Armed Forces and of the National Police of the Democratic Republic of the Congo and in particular by ensuring adequate payment and logistical support for their personnel, and *stresses the need* in this regard to implement without delay the national disarmament, demobilization and reinsertion programme for Congolese combatants;

5. *Further calls on* the Government of National Unity and Transition to develop with MONUC a joint concept of operations for the disarmament of foreign

combatants by the Armed Forces of the Democratic Republic of the Congo, with the assistance of MONUC, within its mandate and capabilities;

6. *Calls on* the donor community, as a matter of urgency, to continue to engage firmly in the provision of assistance needed for the integration, training and equipping of the Armed Forces and of the National Police of the Democratic Republic of the Congo, and *urges* the Government of National Unity and Transition to promote all possible means to facilitate and expedite cooperation to this end;

7. *Emphasizing* that MONUC is authorized to use all necessary means, within its capabilities and in the areas where its armed units are deployed, to deter any attempt at the use of force to threaten the political process and to ensure the protection of civilians under imminent threat of physical violence, from any armed group, foreign or Congolese, in particular the ex-FAR and Interahamwe, *encourages* MONUC in this regard to continue to make full use of its mandate under resolution 1565 in the eastern part of the Democratic Republic of the Congo, and *stresses* that, in accordance with its mandate, MONUC may use cordon and search tactics to prevent attacks on civilians and disrupt the military capability of illegal armed groups that continue to use violence in those areas;

8. *Calls on* all the parties to the Transition in the Democratic Republic of the Congo to make concrete progress towards the holding of elections, as provided for by the Global and All-Inclusive Agreement, in particular in furthering the early adoption of the constitution and of the electoral law, as well as the registration of voters;

9. *Demands* that the Governments of Uganda, Rwanda, as well as the Democratic Republic of the Congo put a stop to the use of their respective territories in support of violations of the arms embargo imposed by resolution 1493 of 28 July 2003 or of activities of armed groups operating in the region;

10. *Further urges* all States neighbouring the Democratic Republic of the Congo to impede any kind of support to the illegal exploitation of Congolese natural resources, particularly by preventing the flow of such resources through their respective territories;

11. *Reaffirms its concern* regarding acts of sexual exploitation and abuse committed by United Nations personnel against the local population, and *requests* the Secretary-General to ensure compliance with the zero tolerance policy he has defined and with the measures put in place to prevent and investigate all forms of misconduct, discipline those found responsible and provide support to the victims, and to pursue active training and awareness-raising of all MONUC personnel, and *further requests* the Secretary-General to keep the Council regularly informed of the measures implemented and their effectiveness;

12. *Urges* troop-contributing countries carefully to review the Secretary-General's letter of 24 March 2005 (A/59/710) and to take appropriate action to prevent sexual exploitation and abuse by their personnel in MONUC, including the conduct of pre-deployment awareness-training, and to take disciplinary action and other action to ensure full accountability in cases of such misconduct involving their personnel;

13. *Decides* to remain actively seized of the matter.

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Agenda item 36
The situation in the Middle East

Security Council
Sixtieth year

Letter dated 29 March 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to inform you that the Lebanese Government approves the decision of the Security Council concerning the establishment of an international commission of inquiry into the assassination of former Prime Minister Rafik Al-Hariri, and that it is ready to cooperate with the commission within the framework of Lebanese sovereignty and of its legal system.

I should be grateful if you would arrange for the text of this letter to be circulated as a document of the General Assembly, under agenda item 36, and of the Security Council.

(*Signed*) Ibrahim **Assaf**
Chargé d'affaires a.i.

05-28740 (E) 290305 290305

United Nations S/2005/209

Security Council

Distr.: General
29 March 2005

Original: English

Identical letters dated 29 March 2005 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council

I have the honour to transmit herewith identical letters dated 29 March 2005 from the Government of the Syrian Arab Republic addressed to the Secretary-General of the United Nations and to the President of the Security Council on the fact-finding mission to Lebanon led by Peter Fitzgerald (see annex).

It would be greatly appreciated if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Fayssal **Mekdad**
Ambassador
Permanent Representative

05-28749 (E) 290305 290305

Annex to the identical letters dated 29 March 2005 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council

[Original: Arabic]

Identical letters dated 29 March 2005 from the Government of the Syrian Arab Republic to the Secretary-General and the President of the Security Council

After reading the report of the fact-finding team headed by Peter Fitzgerald, the Government of the Syrian Arab Republic would like to make the following observations:

1. Owing to the fact that the report gives an elaborate description of the political and psychological conditions prevailing in Lebanon prior to the abominable crime that took the life of the late Prime Minister Rafik Al-Hariri, the results of the report depart from objectivity, reflecting sympathy in one way or another with the point of view of one segment of the Lebanese population and showing little concern for clearly mentioning the point of view of other segments. The explosion of 14 February has been used to serve the point of view of a Lebanese group that had aspired to bring about an overthrow and fails to take into consideration the importance of coexistence, the preservation of domestic peace and the maintenance of the national reconciliation among the Lebanese, in which Al-Hariri himself believed.

2. In its report, the team, despite its politicization of the mission, neglected to mention the historical and geopolitical ties and the interconnected social fabric that exist between the Syrian and Lebanese peoples. Those ties have made the relations between the two countries, since they wrested their independence from France in the 1940s, deeper than the relations that bind any two other neighbouring countries in the region.

3. Though it was not expected that the report would contain any reference to the positive Syrian contribution to the building of national peace in Lebanon and to bringing an end to the civil war in the various regions of Lebanon and among all its confessions and political parties, it is very surprising that the report should lay the blame on Syria for the political tension that had existed for a number of months prior to the assassination of the late Rafik Al-Hariri, ignoring the fact that that tension in the Lebanese political arena had been quite apparent since June 2004, after information leaked out about the preparations under way to bring the question of Lebanon before the Security Council, though there was no understandable justification for so doing. It is indeed a fact that is difficult for any observer or researcher to refute that the adoption of Security Council resolution 1559 (2004) of 2 September 2004 increased the level of tension and created a sharp division in Lebanon between a group that supported the resolution and another group that opposed it. The resolution was given various contradictory interpretations that exacerbated the split between the Lebanese groups, and this resulted in political and economic paralysis and weakened security both within and outside the Lebanese capital.

4. It must be mentioned that the civil war that lasted many long years and was accompanied by Israeli occupation of large parts of southern Lebanon required close military and security cooperation between Syria and Lebanon and political coordination for meeting various challenges. That cooperation was focused primarily on the establishment of internal peace in Lebanon, which arose from the national reconciliation established after the conclusion of the 1989 Taif Agreement. This enabled Syria automatically to reduce its forces in Lebanon from 40,000 to 10,000 troops. In addition, it will carry out a complete withdrawal of those troops before the coming elections in Lebanon.

5. The report ignored the long-term friendly relations that existed between the Syrian leadership and the late Prime Minister Rafik Al-Hariri. It also failed to mention the contribution of Mr. Al-Hariri, side by side with Syria, to the conclusion of the Taif Agreement, his persistent maintenance of strategic Syrian-Lebanese relations and his role as Prime Minister of successive Lebanese Governments over a period of 15 years. If he sometimes withdrew for a few months from holding the office of Lebanese Prime Minister, it was due primarily to Lebanese-Lebanese political differences, not to any dispute between him and Syria. A review of Mr. Al-Hariri's last statements prior to his criminal assassination on 14 February 2005 shows his great desire to maintain personal and political relations with the Syrian leadership. A few days before he was assassinated he had more than one telephone conversation with the Deputy Minister for Foreign Affairs for the purpose of arranging a visit he intended to make to Damascus in order to meet with President Bashar Al-Assad.

6. Syria is therefore greatly surprised at the reference in the report to an unseemly conversation that allegedly took place between the President of the Syrian Arab Republic and the late Prime Minister Al-Hariri. Such a reference is absolutely unacceptable inasmuch as it is false and not substantiated by any material evidence.

7. In conclusion, the Syrian Arab Republic, desirous of maintaining the credibility of the United Nations and the reports issued on its behalf, specifically requests the deletion of the reference concerning the person of the President of the Republic from the report of the fact-finding team, for its sees no justification for its being inserted into any report submitted to the Security Council. As one of the parties injured by the tragic loss of the late Prime Minister Rafik Al-Hariri, Syria also stresses the importance of promptly discovering the perpetrators of that loathsome crime and determining the parties that stand to benefit from it. Syria will support the position of Lebanon in any investigation of that event, given the fact that it is most solicitous of Lebanon's sovereignty, independence and prosperity.

Minister for Foreign Affairs
Syrian Arab Republic